Defense Department authorization for fiscal 1985, are discussed in § 3.45, infra.

Point of Order Based on Committee Jurisdiction But Without Reference to Germaneness Issue

§ 1.3 The point of order that a section in a committee amendment in the nature of a substitute was not within the jurisdiction of that committee does not lie when that section is read for amendment, where no question of germaneness is presented.

The proceedings of July 16, 1974, during consideration of H.R. 15560 (a bill concerning loans to livestock producers) are discussed in § 43.8, infra.

§ 2. Proposition to Which Amendment Must Be Germane

The requirement of germaneness pertains to the relationship between an amendment and the particular proposition sought to be amended. For example, the issue has been raised with respect to an amendment to a particular part of a bill,[18] amendments to amendments[19] and amendments affecting specified provisions of existing law where the bill itself amends such law.[20]

It is well established that the subject matter of an amendment must relate to the portion of the bill to which it is offered.[1] If offered to a specific section of a bill, the amendment should be germane to that section. If the amendment is offered as a new section or title, its germaneness may depend upon its appropriateness at that point in the bill at which it is offered,[2] or, if diverse portions of the bill have been read or the bill is open to amendment at any point, may depend upon its relationship to the bill as a whole.

The rule of germaneness applies to the relationship between a pro-

18. See, for example, § 18, infra, discussing amendments offered to a particular paragraph, section, or title of a bill.

19. See § 21, infra.

20. See §§ 35–42, infra, for discussion of issues of germaneness as affected by the relation of the bill or amendment to existing law.

1. See, for example, § 18.7, infra.

On one occasion, the Chairman remarked, in the course of ruling on the propriety of an amendment to a supplemental appropriation bill that, "If the amendment is germane to any part of the bill, it is germane at the point at which it has been offered." See § 15.3, infra. The Chairman probably intended his remarks to have reference only to the particular context in which he made his ruling.

2. See § 19, infra.

posed amendment and the pending bill to which offered and not to the relation between such amendment and an existing title of the United States Code which the pending bill seeks to amend.[3] At the same time, whether an amendment affecting existing law is germane may depend upon the extent to which it proposes to change such law, and in some instances upon whether the bill under consideration so vitally affects the whole law as to bring the entire act under consideration.[4]

Where a perfecting amendment to text is offered pending a vote on a motion to strike out the same text, the perfecting amendment must be germane to the text to which offered, not to the motion to strike out.[5]

In passing on the germaneness of an amendment, the Chair considers the relationship of the amendment to the bill as it may have been modified by the Committee of the Whole at the time the amendment is offered.[6] Thus, where matter has been stricken from a bill, an amendment that might have been germane to such matter may be ruled out as not germane to the bill.[7]

An amendment that might be considered germane if offered at the end of the reading of the bill for amendment may not be germane if offered during the reading, before all the provisions of the bill are before the Committee of the Whole for consideration.[8] Thus, on one occasion, during consideration of a bill relating to procurements by the Department of Defense, an amendment concerned with duties of the Comptroller General in connection with defense contracts was at first ruled out as not germane to the part of the bill to which offered, since at that point in the reading of the bill no reference had been made to any agency of government other than the Department of Defense.[9] Subsequently, however, when the scope of the bill had been broadened by additional paragraphs passed in the reading, a similar amendment was held to be in order.[10]

The title of a bill is not determinative on the question of whether a proposed amendment is germane to the bill.

An amendment may be germane to more than one portion of a bill.[11]

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3. See § 18.7, infra.

4. See § 35, infra.

5. See § 18.2, infra.

6. See §§ 12.10, 19.14, 35.8, and 35.49, infra.

7. See § 35.32, infra. As to principles applicable where it is sought to amend a Senate amendment which strikes portions of a House bill, see § 27.10, infra.

8. See § 18.1, infra.

9. See § 18.1, infra.

10. See § 18.2, infra.

11. See § 2.2, infra.

The general rule that an amendment must be germane to the portion of the bill to which offered is limited by the proposition that an amendment in the form of a new section or paragraph need not necessarily be germane to the section or paragraph immediately preceding it.(12) Each precedent should be examined separately to determine the structure of the bill to which the new section or paragraph is offered. See, for example, the proceedings of June 19, 1939,(13) where an amendment offered as a new section to a tax bill (to a title dealing with transfers of securities), was held not germane, since there was already a section dealing with the subject matter to which the amendment would have been germane (in a preceding title) and this section had been passed in reading for amendment.

An amendment need only be germane to the pending portion of a bill as that portion has been perfected by prior amendment.(14)

An amendment to an amendment in the nature of a substitute must be germane to the portion of the substitute to which offered.(15)

The test of germaneness of a perfecting amendment to an amendment in the nature of a substitute for a bill is its relationship to that substitute, and not to the original bill.(16)

An amendment must be germane to the title of the bill to which offered.(17)

An amendment adding a new title to a bill being read for amendment by titles must be germane to the titles considered up to that point.(18)

The test of germaneness of an amendment adding a new section at the end of a bill is its relationship to the entire bill as perfected.(19)

The test of the germaneness of an amendment is its relationship to the pending text of the bill as

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12. 8 Cannon's Precedents §§ 2932, 2935.

13. 84 CONG. REC. 7500, 7501, 76th Cong. 1st Sess.

14. See § 2.5, infra.

15. See the proceedings of Dec. 14, 1973, relating to H.R. 11450 (the Energy Emergency Act), as discussed in § 41.20, infra.

16. See § 21.22, infra.

17. See, for example, the proceedings of Sept. 19, 1986, relating to H.R. 2482, the Federal Insecticide, Fungicide, and Rodenticide amendment of 1986, discussed in § 4.76, infra.

18. See, for example, the proceedings of Oct. 18, 1979, relating to H.R. 3000, the Department of Energy Authorization Act for fiscal 1980 and 1981, discussed in § 10.7, infra.

19. See the proceedings of Aug. 2, 1978, relating to H.R. 12514, the International Security Assistance Authorization for fiscal 1979, discussed in § 19.24, infra.

already amended in Committee of the Whole, and cannot be based upon the hypothetical adoption of other amendments not yet offered.[20]

The test of germaneness to a pending title of a bill is the relationship of the amendment and the law being amended therein to the law being amended by that title, and not to other portions of the bill not then pending for amendment.[1]

Amendment Germane to More Than One Portion of Bill

§ 2.1 To the last title of a general appropriations bill, containing general provisions applying to funds carried throughout the bill, an amendment limiting the use of funds by an agency funded in a previous title of the bill was held germane.

An amendment limiting the use of funds by a particular agency funded in a general appropriations bill may be germane if offered at more than one place in the bill; thus, the amendment may be offered when the paragraph carrying such funds is pending, or to any general provisions portion of the bill affecting that agency or all agencies funded by the bill. An illustration of this principle can be found in the proceedings of July 16, 1979,[2] during consideration of H.R. 4393, Treasury, Postal Service and General Government Appropriations for fiscal 1980.

MR. [STEVEN D.] SYMMS [of Idaho]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Symms: On page 39, after line 16, add the following new section:

Sec. 613. No part of the funds appropriated or otherwise made available to the Internal Revenue Service by this Act shall be paid to any person as a reward or bounty for information concerning violations of the internal revenue laws.

MR. [THOMAS J.] STEED [of Oklahoma]: Mr. Chairman, I reserve a point of order.

THE CHAIRMAN:[3] The gentleman will state the point of order.

MR. STEED: Mr. Chairman, the amendment is out of order. We have already passed that place in the bill. . . .

MR. SYMMS: Mr. Chairman, the amendment [is] only a limitation of

20. See, for example, the proceedings of July 8, 1987, relating to H.R. 2342, the Coast Guard Authorization for fiscal 1988, discussed in § 4.46, infra.

1. See the proceedings of July 31, 1990, relating to H.R. 1180, the Housing and Community Development Act, discussed in § 4.58, infra.

2. 125 CONG. REC. 18807, 96th Cong. 1st Sess.

3. Richardson Preyer (N.C.).

spending and adds a new section to the bill. I would maintain that it is in order and it is germane to the bill as a whole.

THE CHAIRMAN: The Chair is prepared to rule on the point of order. The Chair feels that the amendment comes at an appropriate point in the bill and is germane to the general provisions title and the point of order is overruled.

§ 2.2 To a portion of a bill amending several miscellaneous laws on a general subject, an amendment to another law relating to that subject is germane; thus, to a title of an amendment in the nature of a substitute amending several diverse educational assistance laws, an amendment affecting laws relating to federal impact school assistance was held germane, even though that subject matter had been contained in another title already passed in the reading for amendment.

On Mar. 27, 1974,[4] during consideration of a bill to amend and extend the Elementary and Secondary Education Act[5] in the Committee of the Whole, the proceedings were as follows:

THE CHAIRMAN:[6] The Clerk will read.

The Clerk read as follows:

TITLE X—MISCELLANEOUS AMENDMENTS

AMENDMENT OF EMERGENCY SCHOOL AID ACT

Sec. 901. (a) Section 706(a) of the Emergency School Aid Act is amended (1) by striking out paragraph (3), (2) by striking out the period at the end of paragraph (1)(D) and inserting, "; or" and (3) by adding at the end of such paragraph (1) the following:

"(E) which will establish or maintain one or more integrated schools as defined in section 720(7) and which—

"(i) has a sufficient number of minority group children to comprise more than 50 per centum of the number of children in attendance at the schools of such agency, and

"(ii) has agreed to apply for an equal amount of assistance under subsection (b).". . .

Sec. 902. (a)(1) Sections 134(b) (as redesignated by sections 109 and 110(h) of this Act), 202(a)(1), and 302(a)(1) of the Act are each amended by striking out "Puerto Rico,". . . .

(b)(1) Section 612(a)(1) of the Education of the Handicapped Act is amended by striking out "Puerto Rico,"

(2) Sections 612(a)(2) and 613(a)(1) of the Education of the Handicapped Act are each amended by striking out "the Commonwealth of Puerto Rico,". . . .

MR. [ROBERT J.] HUBER [of Michigan]: Mr. Chairman, I offer an amendment to the committee substitute.

The Clerk read as follows:

4. 120 CONG. REC. 8508, 8509, 93d Cong. 2d Sess.

5. H.R. 69.

6. Charles M. Price (Ill.).

Amendment offered by Mr. Huber to the committee substitute; Page 131, immediately after line 15, insert the following new section:

AMENDMENT TO PUBLIC LAW 874

Sec. 906. Section 403(3) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended to read as follows:

"(3) The term 'parent' means any parent, stepparent, legal guardian, or other individual standing in loco parentis, whose income from employment on Federal property is more than 50 percent of the total combined income of such individual and the spouse of such individual.".

Points of order against the amendment were reserved and subsequently discussed by Mr. Carl D. Perkins, of Kentucky, and Mr. Gerald R. Ford, of Michigan:

MR. PERKINS: I insist on the point of order. This is an impact amendment and we have already passed that title.

THE CHAIRMAN: Is that the position of the gentleman from Michigan?

MR. FORD: Yes, Mr. Chairman. I insist on the point of order. I did not press the point of order before the gentleman had an opportunity to explain what he was trying to do. I think his motives are fine, but I disagree with the result it would have. I wanted him to have an opportunity to do that; but clearly his amendment comes too late, since we have already concluded title III of the act which dealt with impact aid.

The amendment the gentleman now offers is not a peripheral or general amendment. It is a substantive amendment of the definition of a child qualifying for impact aid under the basic act covered in title III of this bill.

THE CHAIRMAN: The Chair is ready to rule.

The Chair holds that while an examination of the amendment shows it would have been more appropriately offered to another title of the bill, the Chair does observe that the title which is under consideration is referred to as Miscellaneous Amendments and it amends several other acts, the Emergency School Aid Act, the Education of the Handicapped Act and others; so in view of these circumstances, the Chair is constrained to overrule the point of order.

Accompanying Report Not Relied on in Determining Germaneness

§ 2.3 In determining the germaneness of an amendment, the Chair considers its relationship to the text to which offered and does not rely on accompanying report language not contained in the pending text.

The proceedings of Oct. 6, 1978, relating to H.R. 13750, the Sugar Stabilization Act of 1978, are discussed in § 4.73, infra.

Content of Bill, Not Title Headings, as Determinative

§ 2.4 The scope of a title of a bill is determined by the provisions contained therein and not by the phraseology of the formal heading of the

title; thus, to a title of a bill reported from the Committee on Interstate and Foreign Commerce entitled "Conversion from Oil or Gas to other fuels," but referring only to industrial conversion from oil or gas to coal, an amendment adding a new section increasing the authorization of the Energy Research and Development Administration to promote the practical application of fusion energy (a matter within the jurisdiction of the Joint Committee on Atomic Energy and not within the scope of the title of the bill), was held to be not germane.

On Sept. 18, 1975,[7] during consideration of the Energy Conservation and Oil Policy Act of 1975[8] in the Committee of the Whole, Chairman Richard Bolling, of Missouri, sustained a point of order against an amendment to the pending title of the bill:

TITLE VI—CONVERSION FROM OIL OR GAS TO OTHER FUELS

Sec. 601. Extension of authority to issue orders.

Sec. 602. Extension of enforcement authority. . . .

Sec. 606. Incentives to open new underground mines producing low sulfur coal. . . .

MR. [HENRY B.] GONZALEZ [of Texas]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Gonzalez: On page 338, after line 25, insert a new section.
>
> "Sec. 607. An additional $100,000,000 is authorized for the Energy Research and Development Administration for a high priority program exclusively geared to the practical application of fusion energy."

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I rise to reserve a point of order.

THE CHAIRMAN: The gentleman from Michigan reserves a point of order.

MR. [MIKE] MCCORMACK [of Washington]: Mr. Chairman, I rise to reserve a point of order.

THE CHAIRMAN: The gentleman from Washington reserves a point of order. . . .

MR. MCCORMACK: Mr. Chairman, my point of order is that the amendment comes to the wrong bill and to the wrong committee. The authorization for nuclear research should come to the Joint Committee on Atomic Energy and the Energy Research and Development Administration. . . .

I make my point of order, Mr. Chairman, on the ground that this amendment is out of order because the jurisdiction falls exclusively with the Joint Committee on Atomic Energy and the Energy Research and Development Administration.

THE CHAIRMAN: The gentleman from Michigan (Mr. Dingell) also reserved a point of order against the amendment.

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7. 121 CONG. REC. 29333–35, 94th Cong. 1st Sess.

8. H.R. 7014.

Does the gentleman wish to be heard on his point of order?

MR. DINGELL: . . . I would like to commend my good friend, the gentleman from Texas (Mr. Gonzalez) for offering what I think is a very well written amendment. Unfortunately, no hearings have been held on it, and it has not been considered.

I would point out to the body that the germaneness rule requires that the character of the amendment be such that the membership would have reasonably been apprised that amendments of that sort might be placed before the body. Unfortunately, the character of the amendment is such that it provides certain authorities for ERDA, the Energy Research and Development Agency.

Unfortunately, I do not think there is any way that anyone here could have anticipated amendments dealing with adding authorities or changing authorities within ERDA. . . .

MR. GONZALEZ: . . . In arguing the point of germaneness, I will address myself first to the remarks of the gentleman from Washington (Mr. McCormack). . . .

If we are going to debate on a point of order the merits of the amendment, it is contrary to the clear indication in Deschler's Procedure, one of which decisions I quoted yesterday, on page 73, which says that one does not look to the material content of the general purposes of the bill to determine the specificity—there is a good Watergate word—the specificity of the pending amendment.

The gentleman says, "This is the wrong church, the wrong pew. It ought to go over here into another bill.". . .

Facetiously, let me say that we can make that comment about the last 6 months and say that this bill before the committee has been in the wrong committee and in the wrong place for the last 6 months.

Let me say, however, that in Deschler's Procedure, both cases that I cited yesterday in the Record clearly control the situation here.

I cannot think of anything more germane than this amendment to the section of the bill that is talking about research and development. It is actually authorizing moneys for that purpose. . . .

As to the point of the second gentleman, the gentleman from Michigan (Mr. Dingell), his contention again comes repetitiously as yesterday. He talks about the sanctity of committee jurisdiction. Deschler's Procedure and particularly that citation I quoted yesterday clearly says that that shall not be a governing factor in determining whether or not an amendment is germane to a pending bill. The jurisdiction of a committee is not the controlling factor with respect to germaneness. . . .

THE CHAIRMAN: The Chair is ready to rule.

The title of title VI is exceptionally broad, in the opinion of the Chair.

If the content of title VI were as broad as the title, the Chair believes that the arguments of the eloquent gentleman from Texas (Mr. Gonzalez) might bear more weight. But it is the content of the pending title and not its heading against which the germaneness of the amendment must be weighed.

The Chair has had the opportunity to examine with some care all of title

VI and also language on pages 17 and 18 of the committee report which deals with title VI. The Chair will not read from those words except to say that the Chair only refers to those words in that they support his view that title VI actually deals with the conversion from oil or gas to coal and thus the scope of the title is quite narrow. The amendment therefore does not fit the rule of germaneness despite the eloquence of the gentleman from Texas and the Chair feels compelled to rule that the amendment is not germane to title VI and therefore sustains the various points of order.

§ 2.5 While the heading of a title of a bill as "miscellaneous" does not necessarily permit amendments to that title which are not germane thereto, the inclusion of sufficiently diverse provisions in such title may permit further amendment which in effect need only be germane to the bill as a whole.

Where the final title of a foreign aid bill, as perfected, contained a variety of unrelated provisions such as effective dates for all the provisions of the bill, requirements that authority to make payments in the bill be subject to advance appropriations, delay of the submission date for a report on foreign service personnel, provisions relating to human rights reports, imposition of language requirements for personnel in the foreign service, and prohibition of foreign aid to certain countries, an amendment limiting the expenditure of funds authorized in each title of the bill to a certain percentage was held to be germane. Amendments offered on Apr. 10, 1979,[9] to Title VI of the bill H.R. 3324,[10] were as follows:

TITLE VI—MISCELLANEOUS PROVISIONS

EFFECTIVE DATES

Sec. 601. The amendments made by titles I, II, III, and V and the provisions of title IV shall take effect on October 1, 1979.

MR. [CLEMENT J.] ZABLOCKI [of Wisconsin]: Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. Zablocki: Page 46, immediately after line 9, insert the following new section:

UNIFIED PERSONNEL SYSTEM

Sec. 602. Section 401(a) of the International Development and Food Assistance Act of 1978 is amended by striking out "March 15" and inserting in lieu thereof "May 1".

(b) The amendment made by subsection (a) shall be effective as of March 15, 1979. . . .

Amendment offered by Mr. Zablocki: Page 46, immediately after section 601, insert the following new section:

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9. 125 CONG. REC. 8032, 8034–37, 96th Cong. 1st Sess.

10. The International Development Cooperation Act of 1979.

BUDGET ACT REQUIREMENTS

Sec. 603. (a) The authority to make payments which is provided in sections 405(a), 406(a), 406(c), 407(e), 408(d), and 412 of this Act shall be effective only to the extent that the budget authority to make such payments is provided for in advance by appropriation Acts.

(b) Appropriations may not be made for the fiscal year 1979 under the authority of section 501(d). . . .

The Clerk read as follows:

Amendment offered by Mr. [Leon E.] Panetta [of California]: Page 46, after section 604, insert the following:

FOREIGN LANGUAGE AND AREA KNOWLEDGE REQUIREMENT

Sec. 605. The heads of affected departments and agencies, in consultation with the Secretary of State, shall review every personnel position in the U.S. Government involving service in foreign countries which are authorized by this Act, the Foreign Assistance Act of 1961, the Agricultural Trade Development and Assistance Act of 1954, the Peace Corps Act, or the Arms Export Control Act, whose incumbent should have a useful knowledge of the language or dialect and the history and culture common to such country. Each position reviewed and designated as requiring language competence and area knowledge shall, within two years after enactment of this Act, be filled only by an individual with appropriate language and area knowledge. . . .

[The Zablocki and Panetta amendments were adopted.]

MR. [JOHN M.] ASHBROOK [of Ohio]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Ashbrook: Page 46, immediately after line 9, insert the following new section:

PROHIBITION ON ASSISTANCE TO VIETNAM, CAMBODIA, AND CUBA

Sec. 602. Notwithstanding any other provision of law or of this Act, none of the funds authorized to be appropriated in this Act shall be used for any form of aid or trade, either by monetary payment or by the sale or transfer of any goods of any nature, directly or indirectly, to the Socialist Republic of Vietnam, Cambodia, or Cuba. . . .

MR. ZABLOCKI: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Zablocki as a substitute for the amendment offered by Mr. Ashbrook: Page 46, immediately after line 9, insert the following new section:

PROHIBITION ON ASSISTANCE TO VIETNAM, CAMBODIA, AND CUBA

Sec. 606. Notwithstanding any other provision of law or of this Act, funds authorized to be appropriated in this Act shall not be used for any form of aid, either by monetary payment or by the sale or transfer of any goods of any nature to the Socialist Republic of Vietnam, Cambodia, or Cuba.

[The Zablocki substitute was adopted, and the Ashbrook amendment adopted as amended.]

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bauman: On page 46, line 7 after Sec. 601 insert (a) and add the following new paragraph:

"(b) *Provided,* That, No more than 90 percent of the funds authorized to be appropriated by each title of this act shall be expended, excluding those funds authorized to be appropriated in section 111, all of title II and section 302."

MR. ZABLOCKI: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, as the gentleman from Wisconsin listened to the Clerk read the amendment, and I read the amendment, it appears that the amendment provides a limitation on authorization of funds in section 111, all of title II, and section 302.

I believe the gentleman's amendment, therefore, is not in order and is subject to a point of order since he is authorizing to be appropriated by each title no more than 90 percent of the funds.

THE CHAIRMAN:[11] Does the gentleman from Maryland (Mr. Bauman) desire to be heard?

MR. BAUMAN: I do, Mr. Chairman, but I am not quite sure on what grounds the gentleman from Wisconsin made a point of order.

He simply described the amendment. The amendment is germane to title VI. Title VI clearly refers to the effective dates of all titles, and this amendment simply has the effect, with three exceptions, of cutting by 10 percent the amount of the funds made effective on those dates.

Mr. Chairman, it is a simple cut in funding. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The amendment offered by the gentleman from Maryland provides a percentage limitation on funds authorized to be appropriated by the bill now pending, with the exception of certain specified sections of authorized funds. Title VI of the bill, entitled "Miscellaneous Provisions" has by amendment already been substantially expanded in its scope, and the amendment offered by the gentleman from Maryland need be germane only to the title as a whole, since the bill is being read by title.

Therefore, it is the opinion of the Chair, and the ruling of the Chair, that the amendment is germane to title VI, and the point of order is overruled.

Where Bill Is Open to Amendment at Any Point

§ 2.6 The test of the germaneness of an amendment is its relationship to the pending portion of a bill to which offered, and where a bill is by unanimous consent considered as read and open to amendment at any point, the germaneness of an amendment thereto is determined by its relationship to the entire bill rather than to the particular section to which offered.

A proposition amending the Postal Reorganization Act in several diverse respects, considered as read and open to amendment at any point by unanimous consent, was considered sufficiently

11. Elliott Levitas (Ga.).

comprehensive in scope to admit as germane an amendment to another subsection of that Act to render the entire Postal Service operation subject to the annual appropriation process, although the section of the proposition to which offered contained an annual authorization only for a limited (public service) aspect of the Postal Service operation. The proceedings of Sept. 29, 1975,[12] were as follows:

THE CHAIRMAN:[13] . . . Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Postal Reorganization Act Amendments of 1975".

Sec. 2. Section 2401(b) of title 39, United States Code, is amended to read as follows:

"(b)(1) There is authorized to be appropriated to the Postal Service for the fiscal year ending June 30, 1976, and for each of the fiscal years ending September 30, 1977, 1978, and 1979, an amount equal to $35 multiplied by the number of delivery addresses estimated by the Postal Service to be served during the fiscal year involved. There is authorized to be appropriated to the Postal Service for the period commencing July 1, 1976, and ending September 30, 1976, an amount equal to one-fourth the amount authorized under this subsection for the fiscal year ending June 30, 1976. . . .

MR. [JAMES M.] HANLEY [of New York] (during the reading): Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

THE CHAIRMAN: Is there objection to the request of the gentleman from New York?

There was no objection. . . .

MR. [BILL] ALEXANDER [of Arkansas]: Mr. Chairman, I offer a perfecting amendment.

The Clerk read as follows:

Amendment offered by Mr. Alexander: Page 12, strike out line 20 and all that follows through page 13, line 6, and insert in lieu thereof the following:

Sec. 2. (a)(1) Section 2401(a) of title 39, United States Code, is amended to read as follows:

"(a)(1) There are authorized to be appropriated to the Postal Service for the fiscal year ending June 30, 1976, such sums as may be necessary to enable the Postal Service to carry out the purposes, functions, and powers authorized by this title. . . .

(b) Section 2401(b) of title 39, United States Code, is amended to read as follows:

"(b)(1) There are authorized to be appropriated to the Postal Service such sums as may be necessary as reimbursement to the Postal Service for public service costs incurred by it in providing a maximum degree of effective and regular postal service nationwide, in communities where post offices may not be deemed self-sustaining, as elsewhere. . . .

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12. 121 CONG. REC. 30761, 30764, 30767, 30768, 94th Cong. 1st Sess.

13. Walter Flowers (Ala.).

MR. HANLEY: Mr. Chairman, I raise (a) point of order on the grounds that the matter contained in the amendment is in violation of clause 7, rule XVI of the rules of the House, which provides in part that—

> No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

The bill under consideration, H.R. 8603, is narrow in scope since it relates only to the following specific subject matters.

First, it provides authorization for increased public service appropriations by changing the statutory formula currently in existence.

Second, it would limit the amount of the next temporary rate increase and would establish new procedures and limitations for the implementation of other future temporary postal rates.

Third, it would amend the law with respect to the Postal Rate Commission by changing its procedures to expedite rate and classification cases; by subjecting the Commissioners to Senate confirmation; and by expanding the powers of the Chairman in administering the Commission. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The gentleman from New York (Mr. Hanley) has made a point of order to the amendment offered by the gentleman from Arkansas (Mr. Alexander) to section 2 of the bill. The gentleman's point of order relates, in the Chair's judgment, primarily to the germaneness based upon the scope of the gentleman's amendment and as it relates to the scope of the bill, which bill is open to amendment at any point.

The amendment offered by the gentleman from Arkansas (Mr. Alexander) actually amends section 2(a) of the bill, although section 2(a) of the Postal Act is not amended in the bill before the Committee here this afternoon.

The Chair notes, however, as conceded by the chairman of the subcommittee, there are several enumerated purposes which touch upon many different ramifications and aspects of the postal law. These purposes are diverse in nature.

Since all of the bill is before the Committee at this point, the Chair, reluctantly, comes to the conclusion that the position of the gentleman from New York (Mr. Hanley) in his point of order is not well founded and, therefore, the Chair must overrule the point of order made by the gentleman from New York.

§ 2.7 Where a bill is by unanimous consent being considered as read and open to amendment at any point, the germaneness of an amendment to a portion of that bill may be judged by its relationship to the bill as a whole rather than merely to the section of the bill to which offered; thus, to a bill open to amendment at any point containing protections of the rights of mentally ill institutionalized persons and also a separate title promoting support groups for persons suffering a certain memory disorder (Alz-

heimer's disease) whether or not institutionalized, an amendment expanding the bill's protections to include non-institutionalized mentally ill persons who are in need of such institutionalization was held germane to the bill as a whole, since the bill already covered some persons who were not confined.

On Jan. 30, 1986,[14] the Committee of the Whole had under consideration H.R. 4055, relating to protection of and advocacy for mentally ill persons. Pursuant to a unanimous consent agreement, the bill was being considered as read and open to amendment at any point. The bill stated in part:[15]

> (4) The term "neglect" means a negligent act or omission by any person responsible for providing services in a hospital nursing home, board and care home, or community facility for mentally ill individuals which caused or may have caused injury to a mentally ill individual or which placed a mentally ill individual at risk of injury, and includes the failure—
>
> (A) to establish or carry out an appropriate individual program plan or treatment or discharge plan for a mentally ill individual,
>
> (B) to provide adequate nutrition, clothing, or health care for a mentally ill individual. . . .

An amendment was offered, as follows:[16]

> MR. [STEWART B.] MCKINNEY [of Connecticut]: Mr. Chairman, I offer an amendment.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. McKinney: Page 4, strike out lines 10 through 12 and insert in lieu thereof the following:
>
> "(A)(i) in the case of individuals who need to be placed in inpatient mental health facilities, to place such individuals in optimum therapeutic settings and to provide mental health treatment and related support services appropriate to such individuals level of functioning.
>
> "(ii) in the case of residents of public inpatient mental health facilities who have been inappropriately placed in such facilities, to discharge such residents, and, to the extent appropriate, to place them in optimum therapeutic setting and to provide mental health treatment and related support services appropriate to such individuals' level of functioning.
>
> "(iii) in the case of individuals who are discharged from, or are in need of placement in, inpatient mental health facilities, to inform them of available community-based facilities and programs providing mental health treatment and related support services and to provide them access to a sufficient number of adequately staffed and adequately funded community-based facilities and programs providing mental health and related support services, and
>
> "(iv) to otherwise establish or carry out an appropriate individual program plan or treatment or discharge plan for a mentally ill individual,
>
> Page 4, insert after line 21 the following:
>
> For purposes of clauses (i) and (ii) of subparagraph (A), the term "opti-

14. 132 CONG. REC. 1045–52, 99th Cong. 2d Sess.

15. *Id.* at p. 1045.

16. *Id.* at p. 1051.

> mum therapeutic setting'' means the environment that is least restrictive of an individual's personal liberty and where the care, treatment, habilitation, or rehabilitation is particularly suited to the level of services necessary to properly implement an individual's treatment, habilitation, and rehabilitation. The optimum therapeutic setting for an individual may be a licensed and properly operated State hospital or other public residential care facility.

A point of order was made against the amendment on the grounds that it sought to broaden the coverage of the bill to include a class of persons not within the scope of the proposition sought to be amended. The Chair,[17] however, overruled the point of order, stating that the bill as a whole was broad enough to encompass the class of persons that was the subject of the amendment. Title II of the bill stated in part:[18]

> TITLE II—FAMILY SUPPORT GROUPS
>
> SEC. 201. ALZHEIMER'S DISEASE.
>
> (a) Family Support Groups.—The Secretary of Health and Human Services (hereinafter in this section referred to as the ''Secretary''), acting through the National Institute of Mental Health, the National Institutes on Health, the National Institute on Aging, and the Administration on Aging, shall promote the establishment of family support groups to provide, without charge, educational, emotional, and practical support to assist individuals with Alzheimer's disease or a related memory disorder and members of the families of such individuals. Such groups shall be established in university medical centers and in other appropriate health care facilities which receive Federal funds from the Secretary and which conduct research on Alzheimer's disease or provide services to individuals with such disease.

The point of order, made by Mr. William E. Dannemeyer, of California, and the ensuing discussion and ruling thereon, were as follows:[19]

> MR. DANNEMEYER: Mr. Chairman, the bill in the form before us deals with people in mental health facilities in the States of the Union, people who are already there. This amendment, offered by the gentleman from Connecticut [Mr. McKinney], deals with people who are not in mental health facilities but people who may be eligible to be there, a completely different subject. The discussion of whether or not somebody should be in a mental health facility is a subject and an issue that is separate and distinct from the status and the custody and the care of those who are already located in a mental health facility. It is on that distinction that I think the amendment of the gentleman from Connecticut is subject to a point of order which should be sustained. . . .
>
> MR. MCKINNEY: Mr. Chairman, speaking on the point of order, I would suggest that in fact my amendment

17. William J. Hughes (N.J.).

18. 132 CONG. REC. 1047, 99th Cong. 2d Sess.

19. *Id.* at pp. 1051, 1052.

simply changes some language in the existing bill and that I very appropriately state that optimum therapeutic care is as important for the person on the sidewalk as it is for the person in the institution. . . .

THE CHAIRMAN: The Chair is prepared to rule.

The Chair, in reviewing the amendment offered by the gentleman from Connecticut [Mr. McKinney], would observe that, basically, the gentleman's effort is to broaden the definition of "neglect" and to make that somewhat more elaborate.

It still pertains to persons needing inpatient mental health facilities, in any event.

So the Chair would have to conclude that the amendment only covers a class already covered by the bill as a whole and that the amendment is germane.

New Title Germane to Bill as a Whole Though Subject is Within Another Committee's Jurisdiction

§ 2.8 While ordinarily an amendment waiving provisions of law within another committee's jurisdiction is not germane to a bill reported by a different committee, where the bill as amended already contains diverse provisions relating to the subject of the amendment, a waiver of other provisions of law on that subject may be germane; thus, to a bill reported from the Committee on Agriculture relating to registration of pesticides but also including provisions on liability under other federal law and on judicial review of regulations and pesticide use, an amendment in the form of a new title included in a motion to recommit waiving any other law otherwise requiring payment of attorneys' fees for civil actions brought under the law being amended was held germane to the bill as a whole, committee jurisdiction no longer being the exclusive test of germaneness since the bill as a whole and as amended contained matters within another committee's jurisdiction.

On Sept. 19, 1986,[20] during consideration of the Federal Insecticide, Fungicide and Rodenticide Act[1] in the House, Speaker Pro Tempore Steny A. Hoyer, of Maryland, overruled a point of order against the amendment described above. The proceedings were as follows:

SEC. 811. REVIEW OF REGULATIONS.

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20. 132 CONG. REC. 24741, 24742, 24746, 24747, 24769, 99th Cong. 2d Sess.

1. H.R. 2482.

Section 16 (7 U.S.C. 136n) is amended by adding at the end thereof the following:

"(e) Review of Regulations.—

"(1)(A) Any regulation issued under this Act and first published in the Federal Register in final form after the effective date of the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1986 shall be reviewable only as provided by this subsection. Any person may obtain judicial review of the regulation by filing a petition for review in the United States court of appeals for the circuit wherein the person resides or has its principal place of business or in the United States Court of Appeals for the District of Columbia Circuit. Any petition under this paragraph for review of a regulation shall be filed within 120 days after the date of promulgation of the regulation as designated by the Administrator in the Federal Register.". . .

SEC. 821. LIABILITY.

(a) Pesticide Use.—An agricultural producer shall not be liable in any action brought after the effective date of this Act under any Federal statute for damages caused by pesticide use unless the producer has acted negligently, recklessly, or intentionally. Proof that the agricultural producer used the pesticide in a manner consistent with label instructions shall create a rebuttable presumption that the agricultural producer did not act negligently. . . .

An amendment was offered as follows:

Amendment offered by Mr. Bedell as a substitute for the amendment offered by Mr. Roberts: Section 821(a) of the text of H.R. 5440 (the Amendment in the nature of a substitute to H.R. 2482), is amended (page 138, lines 2 through 10) to read as follows:

SEC. 821. LIABILITY FOR LAWFUL APPLICATION.

(a) Pesticide Use and No Private Right of Action.—(1) Liability under Federal environmental statutes for the costs of response or damage incurred with respect to a release or threatened release into the environment of a pesticide shall, in any case where the application was in compliance with label instructions and other applicable law, be imposed on the registrant or other responsible parties, not the agricultural producer, unless the producer has acted negligently, recklessly, or with the intent to misuse such pesticide. There shall be a rebuttable presumption that the application was in compliance with label instructions and otherwise lawful. . . .

THE CHAIRMAN: The question is on the amendment offered by Mr. Bedell as a substitute for the amendment offered by Mr. Roberts.

The amendment offered as a substitute for the amendment was agreed to.

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Kansas [Mr. Roberts], as amended.

The amendment, as amended, was agreed to. . . .

MR. [RON] MARLENEE [of Montana]: Mr. Speaker, I offer a motion to recommit. . . .

THE SPEAKER PRO TEMPORE: . . . The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Marlenee moves to recommit the bill, H.R. 2482 (as amended by H.R. 5440) to the Committee on Agriculture with the instructions that it adopt the following amendment and forthwith report it back to the House:

Amendment to the text of H.R. 5440 (the amendment in the nature of a substitute to H.R. 2482), after page 163, line 21, insert the following new title:

TITLE XII—LIMITATION ON USE OF FUNDS

FEES AND EXPENSES IN CIVIL ACTIONS

Sec. 1201. The Act is amended by inserting the following new section after section 31:

"Sec. 32. Notwithstanding any other provision of law, no attorneys fees or expenses shall be awarded for any civil action brought under section 3(a) of this Act for failure to meet deadlines.". . .

MR. [DAN] GLICKMAN [of Kansas]: Mr. Speaker, I make a point of order on the motion to recommit that the motion is not germane under clause 7 of rule XVI of the rules of the House. . . .

MR. MARLENEE: . . . Mr. Speaker, my amendment, I submit, is germane for the following reasons:

The title of the bill is for "other purposes" than amending FIFRA.

Other examples of enactments amended by this bill or by the underlying FIFRA Act are the Federal Food, Drug and Cosmetics Act.

The bill authorizes a program and funding for the pesticide program. It also adds a new program, reregistration, new section 3(a) of FIFRA. Both this section and the bill relate to fees and funding for the Reregistration Program. Some of that funding for the Reregistration Program will come from fees assessed against registrants (see page 42 of H.R. 5440) and some will come from appropriated funds.

My amendment would state how some of those funds could not be utilized, and I submit does not violate the rules of the House on that germaneness.

The bill (title VIII) is rife with references to courts and court review. . . .

THE SPEAKER PRO TEMPORE: The Chair is prepared to rule.

The gentleman from Kansas [Mr. Glickman] makes a point of order that the amendment proposed by the instructions in the motion to recommit offered by the gentleman from Montana [Mr. Marlenee] is not germane. Volume III, section 2709 of Cannon's Precedents indicates that it is not in order to include in a motion to recommit instructions to insert an amendment not germane to the section of the bill to which offered. While an earlier version of this amendment was held not germane when offered as an amendment to title I of the bill being read title by title, this amendment proposes to add a new title at the end of the bill limiting the award of attorneys' fees in certain civil actions brought under section 16 of the FIFRA law. The test of germaneness is now properly measured against the bill taken as a whole. The Chair notes that section 202 of the bill deals with civil actions against the United States for just compensation, and that the bill extensively amends other sections of the FIFRA law in titles VIII and IX. In the opinion of the Chair, since the bill already deals with issues relating to adminis-

trative procedure and judicial review of actions taken under this act, the amendment is germane to the bill as a whole, and the point of order is overruled.

Amendment Adding New Section at End Required To Be Germane to Perfected Bill as a Whole

§ 2.9 The test of germaneness of an amendment adding a new section at the end of a bill is its relationship to the bill as a whole, as perfected by the Committee of the Whole.

On Aug. 1, 1979,[2] during consideration of the Emergency Energy Conservation Act of 1979[3] in the Committee of the Whole, Chairman Dante B. Fascell, of Florida, ruled that to a bill authorizing the imposition of rationing plans by the President to conserve energy, providing mechanisms to avoid energy marketing disruptions, and broadened by amendment to provide for monitoring of middle distillates and supplies of diesel oil, an amendment adding a new section to require a set-aside program to provide middle distillates for agricultural production was germane. The proceedings were as follows:

Amendment offered by Mr. [Thomas J.] Tauke [of Iowa]: Page 50, after line 2, insert the following new section:

MONITORING OF MIDDLE DISTILLATE SUPPLY AND DEMAND

Sec. 4. (a) Not later than 60 days after the date of the enactment of this Act, the Secretary of Energy shall establish and maintain a data collection program for monitoring, at the refining, wholesale, and retail levels, the supply and demand levels of middle distillates on a monthly basis in each State.

(b) The program to be established under subsection (a) shall provide for—

(1) the prompt collection of relevant demand and supply data under the authority available to the Secretary of Energy under other provisions of law;

(2) making such data available to the Congress, as well as to appropriate State agencies and the public in accordance with otherwise applicable law, beginning on the 5th day after the close of the month to which it pertains, together with projections of supply and demand levels for the then current month; and

(3) the review and adjustment of such data and projections not later than the 15th day after the initial availability of such data and projections under paragraph (2).

(c) For purposes of this section, the term "middle distillate" has the same meaning as given that term in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this Act.

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2. 125 CONG. REC. 21964–68, 96th Cong. 1st Sess.

3. S. 1030.

(d) The program established under this section shall not prescribe, or have the effect of prescribing, margin controls or trigger prices for purposes of the reimposition of price requirements under section 12(f) of the Emergency Petroleum Allocation Act of 1973.

Redesignate the following sections accordingly.

After some debate, Mr. Tauke made a request, as follows, and the amendment was agreed to, as modified: (4)

MR. TAUKE: Mr. Chairman, I ask unanimous consent to modify my amendment as follows:

On line 16 strike "5th" and insert in lieu thereof "10th".

THE CHAIRMAN: Is there objection to the request of the gentleman from Iowa?

There was no objection.

The Clerk will report the modification to the amendment.

The Clerk read as follows:

On line 16 strike "5th" and insert in lieu thereof "10th".

THE CHAIRMAN: The question is on the amendment offered by the gentleman from Iowa (Mr. Tauke), as modified.

The amendment, as modified, was agreed to.

Thereafter, Mr. Tauke offered the following amendment: (5)

Amendment offered by Mr. Tauke: Page 50, after line 2, insert the following new section:

NATIONAL MIDDLE DISTILLATE SET-ASIDE PROGRAM FOR AGRICULTURAL PRODUCTION

Sec. 4. (a) Not later than 60 days after the date of the enactment of this Act, the President shall establish and maintain a national set-aside program to provide middle distillates for agricultural production.

(b) The program established under subsection (a) shall—

(1) be made effective only if the President finds that a shortage of middle distillates exists within the various regions of the United States generally, or within any specific region of the United States, and that shortage—

(A) has impaired or is likely to impair agricultural production; and

(B) has not been, or is not likely to be, alleviated by any State set-aside program or programs covering areas within that region;

(2) provide that, in regions in which such program is effective, prime suppliers of such fuel be required to set aside each month 1 percent of the amount of the middle distillates to be supplied during that month in that area;

(3) provide that amounts of fuel set aside under such program be directed to be supplied by such prime suppliers to applicants who the President determines would not otherwise have adequate supplies to meet requirements for agricultural production;

(4) provide that such prime suppliers may meet such responsibilities for supplying fuel either directly or through wholesale purchasers who resell fuel, but only in accordance with the requirements established under such program; and

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4. 125 CONG. REC. 21966, 96th Cong. 1st Sess.

5. *Id.* at p. 21967.

(5) shall not supersede any State set-aside program for middle distillates established under the Emergency Petroleum Allocation Act of 1973.

(c) For purposes of this section—

(1) The term "agricultural production" has the meaning given it in section 211.51 of title 10, Code of Federal Regulations, as in effect on the date of the enactment of this section, and includes the transportation of agricultural products.

(2) The term "prime supplier", when used with respect to any middle distillate, means the supplier, or producer, which makes the first sale of the middle distillate into any region for consumption in that region.

(3) The term "middle distillate" has the same meaning as given that term in such section 211.51.

(4) The term "region" means any PAD district as such term is defined in such section 211.51. Redesignate the following sections accordingly.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I reserve a point of order against the amendment. . . .

Mr. Chairman, I insist upon my point of order.

THE CHAIRMAN: The gentleman will state his point of order.

MR. DINGELL: Mr. Chairman, the bill before us is a conservation bill. It deals with conservation of petroleum and petroleum products and energy. It deals also with rationing.

Mr. Chairman, if the Chairman will observe the amendment before him, he will notice it creates a national middle distillate set-aside program for agricultural production. Now, Mr. Chairman, it is quite possible this is a highly desirable thing but that is not the question before the Chair. The question before the Chair is: Does this bill deal with the set-aside of middle distillates or set-asides of other petroleum products?

The answer to that question is a resounding no. The legislation, S. 1030 before us, contains nothing relating to set-aside of petroleum products or matters relating to set-aside of petroleum products.

The members of the committee could not have reasonably expected set-aside amendments to be laid before them on the basis of the legislation which lies before us; so the purposes of the bill and the purposes of the amendment are quite different and distinct. I would, therefore, urge on the chair that this amendment is not germane. I would further state that the proposal goes on to deal with a number of set-aside matters which are not included in the proposal before us, but which are embodied in other statutes, such as the Emergency Petroleum Allocation Act. The legislation deals with the term "agricultural production" as defined in section 211.51 of title X, which is not under the jurisdiction of the Commerce Committee.

The proposal deals with and defines the term prime supplier of middle distillate and the term defines a number of other matters which are not found in the legislation here.

As a matter of fact, it would convert the legislation before us from essentially a conservation program to an allocation program, something which would not be the intention of the committee, as opposed to a rationing program which was. . . .

MR. TAUKE: . . . Mr. Chairman, in this particular measure that we are

considering, we have taken great pains during the past several hours to provide specific consideration for certain businesses that are part of our economy. We considered, for example, nursing homes and health institutions. We have considered with the last amendment of the gentleman from Michigan a whole host of other special businesses in this country. This is a special consideration for the agricultural industry.

In addition, I think it is appropriate to note that in this measure that the bill has been dealing with the allocation of fuels when supplies are scarce. That is what is the exact purpose of this amendment is, to deal with the allocation of fuels at a time when supplies are scarce.

So in view of both of those items, it occurs to me that it is appropriate that this amendment be considered a part of this measure. . . .

MR. [CHARLES] PASHAYAN [Jr., of California]: The point of order, I believe, has something to do with the substance of the amendment as it relates to the bill. The point I am making is that although this is dealing with the set aside, that is only the form. The substance, in fact, relates to the bill, because it is the only way agriculture can be protected under the bill; whereas other businesses do not need set asides and that is the only way we can protect agriculture, so I do think it relates to the substance of the bill. . . .

MR. [CLARENCE J.] BROWN of Ohio: . . . Mr. Chairman, this bill before us deals with EPCA in the rationing section and adds a section on conservation.

Now, EPCA stands for the Emergency Energy Policy and Conservation Act. It is in the conservation parts of this bill that we have the Tauke amendment offered.

The Department of Energy regulations, based on the Emergency Energy Policy and Conservation Act, include those DOE regulations based on that act, include set aside programs for energy conservation or energy usage; so it seems to me that the amendment of the gentleman from Iowa is clearly germane in that he is dealing with set asides as a method of conservation, but from the standpoint of concern about the agricultural community and whether or not the agricultural community will have adequate energy to meet its needs in the interests of the society. . . .

MR. [RICHARD L.] OTTINGER [of New York]: Mr. Chairman, I would like to be heard in favor of the point of order.

Mr. Chairman, I just would like to point out briefly that this is, unlike the other amendments we have had which deal with hospitals, nursing homes and the whole other host of special interests sought to be protected, those all sought to be protected under conservation plans that might be put forward under this bill and the limitation of Presidential powers to put forward such plans.

This amendment is quite different. It seeks to set up an allocation plan specifically to set aside certain amounts of fuel for agriculture.

Therefore, it seems to me quite different from anything else in this bill. It is unrelated and I believe it clearly is out of order. . . .

MR. BROWN of Ohio: . . . One other point that omitted my attention until

the staff drew it to my attention, and it is that the very rationing part of this bill was added as an amendment to the basic legislation in the subcommittee. Therefore, making the legislation quite broad in its approach and for that reason of breadth and for the reason that we accepted that rationing amendment or that rationing portion as an amendment in the subcommittee, it seems to me that the offering of the gentleman from Iowa is very appropriate in the full House at this time.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair has examined the amendment offered by the gentleman from Iowa and considered the point of order as to its germaneness to the bill raised by the gentleman from Michigan.

The [test of the germaneness of a new section is its relationship] to the bill as read to this point and in that case we have a bill at this point in which section 2 deals with rationing.

Section 3 deals with conservation and market disruption, specifically the purpose which the gentleman from Indiana pointed out on page 24 which establishes mechanisms to alleviate disruptions in gasoline and diesel oil markets; in addition to which, a new section 4 has been agreed to by the committee which provides for the monitoring of middle distillates and supply of diesel oil.

Therefore, the scope of the bill as read to this point is significantly broadened and it is now considerably more diverse than any one section thereof.

The Chair, therefore, overrules the point of order and holds that the amendment is germane.

Senate Amendment Adding New Section to House Bill Must Be Germane to Bill as a Whole

§ 2.10 The test of the germaneness of that portion of a Senate amendment in the nature of a substitute adding a new section to a House bill is the relationship of that section to the subject of the House bill as a whole.

On Mar. 26, 1975,[6] during consideration of a conference report on H.R. 2166 (Tax Reduction Act of 1975), it was held that to a House bill containing several sections amending diverse portions of the Internal Revenue Code to provide individual and business tax credits, a part of a Senate amendment in the nature of a substitute which added a new section relating to tax credits for new home purchases and amending a portion of the law amended by the House bill was germane:

CONFERENCE REPORT (H. REPT. 94–120)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2166) to amend the Internal Revenue Code of 1954 to provide for a refund of 1974 individual income taxes,

6. 121 CONG. REC. 8900, 8902, 8930, 8931, 94th Cong. 1st Sess.

to increase the low income allowance and the percentage standard deduction, to provide a credit for certain earned income, to increase the investment credit and the surtax exemption, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following: . . .

TITLE II—REDUCTIONS IN INDIVIDUAL INCOME TAXES . . .

Sec. 208. Credit for purchase of new principal residence. . . .

TITLE VI—TAXATION OF FOREIGN OIL AND GAS INCOME AND OTHER FOREIGN INCOME . . .

Sec. 602. Taxation of earnings and profits of controlled foreign corporations and their shareholders. . . .

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Certain unemployment compensation.

Sec. 702. Special payment to recipients of benefits under certain retirement and survivor benefit programs. . . .

SEC. 208. CREDIT FOR PURCHASE OF NEW PRINCIPAL RESIDENCE

(a) Allowance of Credit.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed) is amended by redesignating section 44 as section 45 and by inserting after section 43 the following new section:

"SEC. 44. PURCHASE OF NEW PRINCIPAL RESIDENCE.

"(a) General Rule.—In the case of an individual there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 5 percent of the purchase price of a new principal residence purchased or constructed by the taxpayer. . . .

MR. [BARBER B.] CONABLE [Jr., of New York]: Mr. Speaker, I make a point of order against the conference report on the ground it contains matter which is in violation of provision 1, clause 7, of rule XVI. The nongermane matter I am specifically referring to is that section of the report dealing with the tax credit on sales of new homes. It appears in section 208 of the conference report, on page 14, as reported by the Committee on Conference. . . .

[A] careful scrutiny of the titles of the House bill, as it was sent to the Senate, shows many types of tax measures, but nothing relating to the sale of homes. This clearly is an addition of a very divergent nature to the bill and deals with the nonbusiness and nonpersonal type of credit. . . .

MR. [AL] ULLMAN [of Oregon]: Mr. Speaker, I would like to speak against the point of order.

Mr. Speaker, this is a very broad bill. It was a broadly based bill when it left this House to go to the other body. It has many diverse sections and many different kinds of tax treatments. It does deal with tax credits. It did deal with tax credits when it left the House, both for individuals and for corporations.

Mr. Speaker, it seems to me this falls totally within the purview of the bill as we passed it in the House and should be considered germane to the bill.

THE SPEAKER:[7] The Chair is ready to rule.

The gentleman from New York (Mr. Conable) makes the point of order against section 208 of the conference report on the bill H.R. 2166 on the ground that it would not have been germane to H.R. 2166 as passed by the House and is thus subject to the provisions of clause 4, rule XXVIII.

In passing upon any point of order against a portion of the Senate amendment in the nature of a substitute which the conferees have incorporated in their report, the Chair feels it is important to initially characterize the bill H.R. 2166 in the form as passed by the House. The House-passed bill contained four diverse titles, and contained amendments to diverse portions of the Internal Revenue Code of 1954. Title I of the House bill provided a refund of 1974 individual income taxes. Title II provided for reductions, including credits, in individual income taxes. Title III made several changes in business taxes, and title IV further affected business taxes by providing for the repeal of the percentage depletion for oil and gas.

The Senate amendment in the nature of a substitute contained provisions comparable to all four titles in the House-passed bill, and also contained a new title IV amending other portions of the Internal Revenue Code, making further amendments to the code with respect to tax changes affecting individuals and businesses, and a new title VI and title VII, relating to taxation of foreign and domestic oil and gas income and related income, and to the tax deferment and reinvestment period extension, respectively. The provision against which the gentleman makes the point of order was contained in section 205 of title II of the Senate amendment in the nature of a substitute.

The Chair would call the attention of the House to the precedent contained in Cannon's VIII, section 3042, wherein the Committee of the Whole ruled that to a bill raising revenue by several diverse methods of taxation . . . an amendment in the form of a new section proposing an additional method of taxation—a tax on the undistributed profits of corporations—was held germane. The Chair would emphasize that the portion of the Senate amendment included in the conference report against which the point of order has been made was in the form of a new section to the House bill, and was not an amendment to a specific section of the House bill. As indicated in Deschler's Procedure, chapter 28, section 14.4, the test of germaneness in such a situation is the relationship between the new section or title and the subject matter of the bill as a whole.

The Chair would also point out that section 203 of the House bill, on page 10, amends the same portion of the code which this part of the conference report would amend.

For these reasons, the Chair holds that section 208 of the conference report is germane to the House-passed bill and overrules the point of order.

§ 2.11 Where conferees report a conference substitute, in-

7. Carl Albert (Okla.).

cluding provisions of the House bill and of the Senate amendment in conference, the test of germaneness to be applied when a point of order is raised under Rule XXVIII, clause 4, is the relationship of the language derived from the Senate amendment to the House-passed bill as a whole, and not to a portion of that bill.

To a House bill containing several sections amending diverse portions of the Internal Revenue Code to provide certain individual and business tax credits, a new section of a Senate amendment in the nature of a substitute contained in a conference report, which added a new section to the House bill and which dealt with earnings and profits of controlled foreign corporations and included limitations on the use of foreign tax credits from foreign oil-related income was held germane. The portion of the conference substitute in question on Mar. 26, 1975,[8] was as follows:

SEC. 602. TAXATION OF EARNINGS AND PROFITS OF CONTROLLED FOREIGN CORPORATIONS AND THEIR SHAREHOLDERS.

(a) Repeal of Minimum Distribution Exception to Requirement of Current Taxation of Subpart F Income.—

(1) Repeal of Minimum Distribution Provisions.—Section 963 (relating to receipt of minimum distributions by domestic corporations) is hereby repealed.

(2) Certain Distributions by Controlled Foreign Corporations to Regulated Investment Companies Treated as Dividends.—Subsection (b) of section 851 (relating to limitations on definition of regulated investment company) is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (2), there shall be treated as dividends amounts included in gross income under section 951(a)(1)(A)(i) for the taxable year to the extent that, under section 959(a)(1), there is a distribution out of the earnings and profits of the taxable year which are attributable to the amounts so included.". . .

The pertinent part of the statement of the managers was as follows:

LIMITATION ON FOREIGN TAX CREDIT FOR TAXES PAID IN CONNECTION WITH FOREIGN OIL AND GAS INCOME

House bill.—No provision.

Senate amendment.—The Senate amendment repeals the foreign tax credit on all foreign oil-related income and allows any taxes on that income as a deduction. The amendment also provides that foreign oil-related income is to be taxed at a 24-percent rate.

8. 121 CONG. REC. 8909, 8915, 8933, 8934, 94th Cong. 1st Sess. Under consideration was the conference report on H.R. 2166, the Tax Reduction Act of 1975.

Conference substitute.—The conference substitute modifies the Senate amendment and applies a strict limitation on the use of foreign tax credits from foreign oil extraction income and foreign oil-related income. . . .

MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Speaker, I make a point of order against the conference report on the ground that it contains matter which is in violation of the provisions of clause 7 of rule XVI. The nongermane matter that I am specifically referring to is that section of the report dealing with taxation of earnings and profits of controlled foreign corporations and their shareholders, in section 602 as reported by the committee of conference. . . .

As the Speaker well knows, I am sure, from listening carefully to the explanations regarding previous points of order, at no point during the consideration of the House-passed bill is there any mention of foreign taxation and the dealings of foreign taxes insofar as American corporations and their subsidiaries are concerned.

Title I of the 1975 tax bill dealt with the refund for 1974 taxes. Title II dealt with reductions in individual income taxes. Title III dealt with certain changes in business taxes, the title which dealt with the investment tax credit or income tax total, particularly as related to small businesses.

This particular provision, Mr. Speaker, in no way deals with a matter that was covered, mentioned, or dealt with by the bill that is presented to the House, or voted upon by the House. . . .

MR. [AL] ULLMAN [of Oregon]: . . . Mr. Speaker, the bill that the House passed had a great many diverse sections in it; it had credits. The matter that has been raised is an amendment to the Internal Revenue Code very clearly, and much of it is in the way of a credit. We have dealt with credits here both for individuals and for corporations in the bill that the House passed.

It seems to me that in a bill of this scope and in a bill that deals as broadly with tax credits and matters such as this that does involve an amendment to the Internal Revenue Code, it is very clearly within the province of the bill, and should be ruled germane.

THE SPEAKER:[9] The Chair is prepared to rule.

For the reasons stated in the opinion of the Chair on a similar point of order made by the gentleman from New York (Mr. Conable) and for the reasons stated by the gentleman from Oregon, the Chair overrules the point of order.[10]

Germaneness of Amendment in Nature of Substitute Determined by Relationship to Bill as a Whole

§ 2.12 The test of germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole and is not necessarily determined by the content of an incidental portion of the amendment which if offered separately, might not be germane to the por-

9. Carl Albert (Okla.).

10. See also § 26, infra.

tion of the bill to which offered.

On July 8, 1975,[11] the Committee of the Whole, during proceedings relating to H.R. 49 (a bill concerned with national petroleum reserves on public lands), had under consideration amendments recommended by the Committee on Interior and Insular Affairs authorizing the Secretary of the Interior to establish national petroleum reserves on certain public lands and authorizing exploration for oil and gas on naval petroleum reserve number 4 with annual reports to Congress. An amendment in the nature of a substitute was offered which contained similar provisions and also required a task force study of the values and best uses for subsistence, scenic, historical, and recreational purposes, and for fish and wildlife, of the public lands in that naval petroleum reserve was held germane despite the inclusion of that incidental portion which, if considered separately, might not have been germane. The proceedings were as follows:

MR. [JOHN] MELCHER [of Montana]: Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Melcher: Strike out all after the enacting clause and insert:

That in order to develop petroleum reserves of the United States which need to be regulated in a manner to meet the total energy needs of the Nation, including but not limited to national defense, the Secretary of the Interior, with the approval of the President, is authorized to establish national petroleum reserves on any reserved or unreserved public lands of the United States (except lands in the National Park System, the National Wildlife Refuge System, the Wild and Scenic Rivers System, the National Wilderness Preservation System, areas now under review for inclusion in the Wilderness System in accordance with provisions of the Wilderness Act of 1964, and lands in Alaska other than those in Naval Petroleum Reserve Numbered 4). . . .

(f) The Secretary of the Interior with the approval of the President, is hereby authorized and directed to explore for oil and gas on the area designated as Naval Petroleum Reserve Numbered 4 if it is included in a National Petroleum Reserve and he shall report annually to Congress on his plan for exploration of such reserve, *Provided*, That no development leading to production shall be undertaken unless authorized by Congress. He is authorized and directed to undertake a study of the feasibility of delivery systems with respect to oil and gas which may be produced from such reserve: *Provided further*, That the Secretary of the Interior shall, through a Task Force, including representatives of the State of Alaska, the Arctic Slope Regional Corporation, the U.S. Fish & Wildlife Service and the Office of National Petroleum Reserves established by this Act, functioning cooperatively, study and review the values and best uses of the public domain lands contained in Naval Petroleum Reserve Numbered 4 as subsistence lands for natives, scenic,

11. 121 CONG. REC. 21631–34, 94th Cong. 1st Sess.

> historical, recreational, fish and wildlife, wilderness or for other purposes, and, within three years, submit to Congress his recommendations for such designation of areas of those lands as may be appropriate and, *Provided further*, that oil and gas exploration within the Utukok River and Teheshepuk Lake areas and others containing significant subsistence, recreational, fish and wildlife, historical or scenic values, shall be conducted in a manner so as to preserve such surface values.

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, I have a point of order. . . .

The bill, H.R. 49, authorizes as follows:

> To authorize the Secretary of the Interior to establish on certain public lands of the United States national petroleum reserves the development of which needs to be regulated in a manner consistent with the total energy needs of the Nation, and for other purposes.

Mr. Chairman, if we refer to the bill in toto, nowhere will we find in that bill language relating to subsection (f) of the amendment submitted to us. I regret that I cannot give the Chair the precise citation.

I will state that the point of order goes to the section relating to the words,

> Provided further, That the Secretary of the Interior shall, through a Task Force, including representatives of the State of Alaska, the Arctic Slope Regional Corporation, the U.S. Fish and Wildlife Service and the Office of National Petroleum Reserves established by this Act, functioning cooperatively, study and review the values and best uses of the public domain lands contained in Naval Petroleum Reserve Numbered 4 as subsistence lands for natives, scenic, historical, recreational, fish and wildlife, wilderness or for other purposes, and, within three years submit to Congress his recommendations for such designation of areas of those lands as may be appropriated. . . .

Mr. Chairman, a fundamental rule of the House of Representatives is that the burden of establishing the germaneness of an amendment falls upon the offeror and does not fall upon the Member challenging the germaneness. I would point out that nowhere else in the bill is there a proviso for a provision for a study involving groups, and nowhere in the title of the legislation is there anything that would justify or authorize a study of the kind that is set forth here in the amendment.

As a matter of fact, nowhere in the amendment that was reported by the Committee on Interior and Insular Affairs to the House of Representatives is there anything which would relate to a study. A study of the kind that is before us is totally different and alien.

The purpose of the legislation is to establish a program of national strategic reserves and for the development of the petroleum reserves and not for the establishment of a study. It is not for the establishment of a study relating to fish and wildlife values, historical values, and matters of that sort.

So since the burden falls upon the offeror of the amendment, the gentleman from Montana (Mr. Melcher), I would point out that he has assumed for himself a burden which is impossibly heavy, and that is to provide a study of such sweeping import relating to totally different matters than those which are contained in the bill.

For that reason, Mr. Chairman, the point of order should be sustained.

MR. MELCHER: Mr. Chairman, I rise in opposition to the point of order.

Mr. Chairman, I think the point is covered in rule XVI at section 798c where it says as follows:

> . . . the test of the germaneness of an amendment in the nature of a substitute for a bill is its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee.

Mr. Chairman, I think that about settles the point.

THE CHAIRMAN:[12] The Chair is prepared to rule.

The proviso cited by the gentleman from Michigan (Mr. Dingell) is on page 8 of the mimeographed form of the Melcher amendment.

Had this proviso been presented separately, the germaneness would have been measured against the portion of the Interior Committee amendment to which offered. However, having been presented as a part of an overall substitute, the Chair would rule that the provision objected to is merely incidental to the fundamental purpose of the amendment, and that under the precedent cited by the gentleman from Montana (Mr. Melcher), in section 798(b) of the Manual the amendment is germane to the text when viewed as a whole.

The Chair therefore overrules the point of order.

12. Neal Smith (Io.).

Germaneness Determined by Form of Bill as Modified by Prior Amendment

§ 2.13 In passing on the germaneness of an amendment, the Chair considers the relationship of the amendment to the bill as modified by the Committee of the Whole.

See, for example, the proceedings of Apr. 23, 1975, relating to H.R. 6096, the Vietnam Humanitarian and Evacuation Assistance Act, discussed in § 3.51, infra.

Germaneness Determined by Form of Bill at Time Amendment Offered

§ 2.14 The germaneness of an amendment is determined by its relationship to the form of the bill at the time the amendment is offered and is not affected by prior adoption of a special rule permitting consideration of a nongermane committee amendment, where the committee amendment has not yet been considered.

The proceedings of Sept. 25, 1975, relating to H.R. 1287, a bill to amend the United Nations Participation Act of 1945 to halt the importation of Rhodesian chrome, are discussed in § 31.23, infra.

Amendment to Amendment Must Be Germane Thereto

§ 2.15 The germaneness of an amendment to an amendment is determined on the basis of the relationship between the two amendments.

The proceedings of Oct. 2, 1975, relating to S. 2230, authorizing appropriations for the Board for International Broadcasting for 1976, and to Promote Improved Relations Between the United States, Greece and Turkey, are discussed in § 8.23, infra.

Amendment Offered to Amendment in Nature of Substitute Must Be Germane Thereto Rather Than to Bill

§ 2.16 The test of germaneness is the relationship between an amendment and the amendment in the nature of a substitute to which it is offered, and not between the amendment and the bill for which the amendment in the nature of a substitute has been offered.

During proceedings relating to a bill (H.R. 8860) to amend and extend the Agricultural Act of 1970, the Committee of the Whole had under consideration an amendment in the nature of a substitute amending several Acts within the jurisdiction of the Committee on Agriculture. An amendment to such amendment directing the Secretary of Agriculture to establish emergency temporary work standards for agricultural workers exposed to pesticide chemicals notwithstanding the Occupational Safety and Health Act (a matter within the jurisdiction of the Committee on Education and Labor), and repealing certain work regulations promulgated under that Act, was held to be not germane, despite inclusion of a similar provision in the bill to which the amendment in the nature of a substitute had been offered. The proceedings of July 19, 1973, [13] were as follows:

> MR. [WILMER] MIZELL [of North Carolina]: Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.
>
> The Clerk read as follows:
>
> Amendment offered by Mr. Mizell to the amendment in the nature of a substitute offered by Mr. Foley: On page 53, line 3, insert the following:
>
> Sec. 2. (a) Notwithstanding section 6(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 654(c)) or any other provision of law, the Secretary of Agriculture shall provide, without regard to the requirements of chapter 5, title 5, United States Code, for an emergency temporary standard prohibiting agricultural workers from entering areas where crops are produced or grown

13. 119 CONG. REC. 24962, 24963, 93d Cong. 1st Sess.

(such emergency standard to take immediate effect upon publication in the Federal Register) if he determines (1) that such agricultural workers are exposed to grave danger from exposure to pesticide chemicals, as defined in section 201(q) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(q)), and (2) that such emergency standard is necessary to protect such agricultural workers from such danger.

(b) Such temporary standard shall be effective until superseded by a standard prescribed by the Secretary of Agriculture by rule, no later than six months after publication of such temporary standard. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I raise a point of order against the amendment in that it is not germane because it would have the effect of amending the Occupational Safety and Health Act which is under the jurisdiction of the Education and Labor Committee. . . .

[MR. MIZELL: Mr. Chairman, this language was in the committee bill that was reported to the House, and the Foley substitute eliminated this section of the bill, and so for that reason, I offer the amendment at this time, and I think it is germane to the bill since this bill does cover a number of subjects. . . .

[MR. [WILLIAM A.] STEIGER of Wisconsin: Mr. Chairman, the rule under which this legislation came to us precluded a point of order being raised against the Mizell amendment, the one that was contained in the original Agriculture Committee bill since this bill was a clean bill reported by the Committee on Agriculture.

What we are now dealing with is a situation in which this is an amendment to a substitute.

The subject matter covered by the amendment is clearly not germane to the jurisdiction of the Committee on Agriculture, since it is covered by the Committee on Education and Labor, and thus I believe the point of order ought to be sustained by the Chair. . . .

THE CHAIRMAN:[14] The Chair is ready to rule.

The Chair advises the gentleman from North Carolina (Mr. Mizell) that as far as the rule is concerned, it has no relevance concerning the point of order at this time. It is true that the content is the amendment as offered by the gentleman from North Carolina (Mr. Mizell) on the original bill, but the amendment before the House at this time is in the nature of a substitute.

Therefore, the Chair rules that the point of order must be sustained.

Substitute Must Be Germane to Amendment for Which Offered

§ 2.17 The test of the germaneness of a substitute amendment is its relationship to the amendment for which offered and not its relationship to the pending bill.

On June 1, 1976,[15] during consideration of a bill[16] extending the Federal Energy Administra-

14. William H. Natcher (Ky.).
15. 122 CONG. REC. 16051, 16055, 16056, 94th Cong. 2d Sess.
16. H.R. 12169.

tion Act, an amendment was offered which sought to change a provision of the bill relating to the date of termination of the Federal Energy Administration. A substitute for that amendment was then offered. The proceedings were as follows:

MR. [FLOYD J.] FITHIAN [of Indiana]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. Fithian: Page 10, line 4, strike out "September 30, 1979" and insert in lieu thereof "December 31, 1977". . . .

MR. [GARY] MYERS of Pennsylvania: Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from Indiana (Mr. Fithian). . . .

The Clerk read as follows:

> Amendment offered by Mr. Myers of Pennsylvania as a substitute for the amendment offered by Mr. Fithian: On page 10, after line 4, add the following:
>
> "Sec. 3. Section 28 of the Federal Energy Administration Act of 1974 is amended by inserting the following, in lieu thereof,
>
> " 'Notwithstanding section 527 of the Energy Policy and Conservation Act, upon termination of this Act, as provided for in Section 30 of this Act, all functions of the Federal Energy Administration shall be transferred to existing departments, agencies or offices of the Federal Government, or their successors. The President, through the Director of the Office of Management and Budget, shall file, 12 months before the termination of this Act, a plan and program with the Speaker of the House of Representatives and the President of the Senate, to provide for the orderly transfer of the functions of the Federal Energy Administration to such departments, agencies or offices. Within 90 days after the submission of this plan and program, either House of Congress may pass a resolution disapproving such plan and program.' ". . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, my point of order is in several parts. The first, Mr. Chairman, is that the amendment must be germane to the Fithian amendment. I make the point that it is not.

Mr. Chairman, the Fithian amendment, if the Chair will note, simply relates to the termination of the existence of the FEA as an agency and sets a date for the expiration thereof.

This amendment goes much further, and if the Chair will consult the amendment, the Chair will find that it relates to the compensation of executives, that it relates and fixes the levels at which executives' salaries and compensation will be held. It deals with the administration being able to employ and fix the compensation of officers and employees and it limits the number of positions which may be at different GS levels.

It goes much further. It deals with section 527 of the Energy Policy and Conservation Act, which is not referred to in the Fithian amendment and, indeed, which is not referred to elsewhere in the bill.

Mr. Chairman, it deals with the fixing of the compensation of Federal employees. It deals with the powers of the President, the duties and powers of the Director of the Office of Management and Budget functioning through and under the President. It deals with the

filing of the plans for the termination of the act with the Speaker of the House of Representatives and it provides a plan to deal with the orderly transfer of functions to the Federal Energy Administration to such Departments and so forth.

It goes further and effectively amends the Reorganization Act by providing that the plan may be approved or disapproved by either House of Congress in a fashion in conformity with the requirements of the Reorganization Act. . . .

MR. MYERS of Pennsylvania: . . . This amendment simply deals with the termination of the FEA after 15 months. The only difference between my amendment and the amendment of the gentleman from Indiana (Mr. Fithian) would be that it does indicate that the President should through OMB present to the Congress a plan . . .

THE CHAIRMAN:[17] The Chair is ready to rule.

The amendment offered by the gentleman from Indiana (Mr. Fithian) goes solely to the question of the date of termination of the FEA. The substitute amendment offered by the gentleman from Pennsylvania, now before the Committee, goes beyond that issue to the question of reorganization of that agency. Therefore, it is not germane as a substitute. The point of order would have to be sustained; but the gentleman's amendment might be in order following the Fithian amendment as a separate amendment to the Committee proposal.

§ 2.18 The test of germaneness is the relationship between a substitute and the amendment for which offered, and not between the substitute and the original bill; accordingly, where an amendment denied eligibility for certain higher education assistance benefits to persons refusing to register for military service, a substitute denying benefits under the same provisions of law except to persons refusing to register for religious or moral reasons was held germane.

On July 28, 1982,[18] during consideration of H.R. 6030 (military procurement authorization for fiscal 1983), Chairman Les AuCoin, of Oregon, held that to a proposition denying benefits to recipients failing to meet a certain qualification, a substitute denying the same benefits to some recipients but excepting others was germane:

MR. [GERALD B.] SOLOMON [of New York]: Mr. Chairman, I offer an amendment which is printed in the Record.

The Clerk read as follows:

Amendment offered by Mr. Solomon: Page 26, after line 22, add the following new section:

ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT

Sec. 1010. (a) Section 12 of the Military Selective Service Act (50

17. William H. Natcher (Ky.).

18. 128 CONG. REC. 18355–58, 18361, 97th Cong. 2d Sess.

U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) The Director of the Selective Service System shall submit to the Secretary of Education, with respect to each individual receiving, or applying for, any grant, assisted loan, benefit, or other assistance, under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), or participating in any program established, or assisted, under such title, verification of whether such individual has violated section 3 by not presenting and submitting to registration pursuant to section 3. . . .

"(3) If the Secretary of Education preliminarily determines that any individual described in paragraph (1) has violated section 3, the Secretary of Education shall notify such individual of the preliminary determination.

"(4) Any individual notified pursuant to paragraph (3) may submit to the Secretary of Education within a period of time of not less than 30 days after receiving such notification any information with respect to the compliance or violation of section 3 by such individual.

"(5) After the period of time specified in paragraph (4) and taking into consideration any information submitted by the individual, the Secretary of Education shall make a final determination on whether each individual notified pursuant to paragraph (3) has complied with or violated section 3.

"(6)(A) Notwithstanding any other provision of law, any individual finally determined by the Secretary of Education pursuant to paragraph (5) to have violated section 3 is not eligible for, and may not receive, any grant, assisted loan, benefit, or other assistance, under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), and may not participate in any program established, or assisted, under such title. . . .

MR. [PAUL] SIMON [of Illinois]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Simon as a substitute for the amendment offered by Mr. Solomon: At the end of the bill add the following new section:

Sec. 1010. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) In order to receive any grant, loan, or work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), a person who is required under section 3 to present himself for and submit to registration under such section shall—

"(A) submit to the institution of higher education which the person intends to attend, or is attending, proof that such person has submitted to such registration;

"(B) complete and submit the necessary forms for such registration at the time of filing application for such grant, loan, or work assistance; or

"(C) submit a statement that such person refuses to submit to such registration for religious or moral reasons.

"(2) For the purposes of paragraph (1), the Director, after consultation with the Secretary of Education, is authorized to prescribe methods for providing to, and collecting from, institutions of higher education the forms necessary for registration under section 3, and for collecting statements described in paragraph (1)(C) from such institutions.".

(b) The amendments made by subsection (a) of this section shall apply to loans, grants, or work assistance under title IV of the Higher Edu-

cation Act for periods of instruction beginning on or after July 1, 1983. . . .

MR. SOLOMON: Mr. Chairman, I raise a point of order. . . .

[T]he amendment which I offered and was printed in the Record was a nongermane amendment which had points of order raised against it.

Subsequently, I appeared before the Rules Committee and asked for those points of order to be waived, which they granted in the rule.

Now in the amendment that the gentleman from Illinois (Mr. Simon) is offering, in section (c) he says to submit a statement that such person refuses to submit to such registration for religious and moral reasons. That is additional law which had nothing to do with the amendment and the waiver of points of order that were granted by the Rules Committee. I say that the gentleman's amendment is out of order because of that. . . .

MR. SIMON: . . . Mr. Chairman, what we are talking about is how we can have something that is workable. My aim is the same as that of the gentleman from New York, but I think the gentleman from New York, with all due respect, has not dealt with this whole very complex problem of student loans and grants.

I think the amendment that I have is the only workable one. I think it is totally within the province of the amendment that the gentleman has.

I think the substitute amendment that I have offered is in order.

THE CHAIRMAN PRO TEMPORE: The Chair is prepared to rule.

The Chair finds that both the amendment and the substitute amendment prescribe limitations on eligibility under title IV of the Higher Education Act of 1965, both in similar ways.

The question of the waiver granted to the Solomon amendment by the rule is not relevant to the point of order since the test of germaneness is whether the substitute amendment is germane to the amendment, not to the bill.

Therefore, the Chair rules that the amendment is in order and the gentleman is recognized.

§ 2.19 The test of germaneness is the relationship between a substitute and the amendment for which offered, and not between the substitute and the original bill.

The proceedings of July 28, 1982, relating to H.R. 6030, the military procurement authorization for fiscal 1982, are discussed in § 29.11, infra.

Amendment to Substitute Need Not Affect Same Page and Line Numbers

§ 2.20 An amendment to a substitute is not required to affect the same page and line numbers as the substitute in order to be germane, it being sufficient that the amendment is germane to the subject matter of the substitute. Accordingly, to a substitute to require that certain emer-

gency energy conservation plans (entailing the use of auto stickers indicating certain days an auto would not be operated) be established (1) only after consultation with state governors, and (2) only after consideration of rural and suburban needs, an amendment striking out and inserting language elsewhere in the bill which also related to the use of auto stickers as part of the energy conservation plans, was held germane to the two diverse conditions already required by the substitute.

During consideration of the Emergency Energy Conservation Act of 1979[19] in the Committee of the Whole on Aug. 1, 1979,[20] Chairman Dante B. Fascell, of Florida, overruled a point of order against an amendment to a substitute and held that the amendment was germane to the substitute. The amendment and proceedings were as follows:

MR. [TOBY] MOFFETT [of Connecticut]: Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Moffett as a substitute for the amendment offered by Mr. Rinaldo: Page 45, after line 9, insert the following new subsection:

"(d) Needs of Rural and Certain Other Areas.—Any system under this section shall be established only after consultation with the Governors of the States involved and shall provide appropriate consideration of the needs of those in suburban and rural areas, particularly those areas not adequately served by any public transportation system, through the geographical coverage of the system, through exemptions under subsection (c)(8), or through such other means as may be appropriate.

MR. [ANDREW] MAGUIRE [of New Jersey]: Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. Maguire to the amendment offered by Mr. Moffett as a substitute for the amendment offered by Mr. Rinaldo: At the end insert the following: Page 43, beginning on line 24, strike out "day of each week that vehicle will not be operated" and insert "day of each week the owner of that vehicle has selected for that vehicle not to be operated".

MR. [TOM] LOEFFLER [of Texas]: Mr. Chairman, I reserve a point of order against the amendment. . . .

Mr. Chairman, the Maguire amendment, although offered to the Moffett amendment, is really a direct amendment to the bill before us. Therefore, it is not germane to the Moffett substitute. In addition, the Moffett substitute goes to page 45, line 9 of the bill before us. The amendment offered by the gentleman from New Jersey (Mr. Maguire) goes to page 43, line 24.

In addition, it is also not germane for that purpose.

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19. S. 1030.

20. 125 CONG. REC. 21939, 21944–47, 96th Cong. 1st Sess.

THE CHAIRMAN: Does the gentleman from Michigan desire to be heard on the point of order?

MR. [JOHN D.] DINGELL [of Michigan]: I do, Mr. Chairman, and I am sure the gentleman from New Jersey desires to do so also.

Mr. Chairman, the question of where the amendment might lie in the bill with regard to page or section is not important. I would observe to the Chair that the amendment offered originally by the minority goes to several pages in the bill. I would point out that what is involved here is the text of the amendments, and whether or not the language and the purposes and the concepts of the amendment are germane and are relative and relevant to the amendment offered by the gentleman from Connecticut.

I believe that a reading of the amendment offered by the gentleman from Connecticut will show that the amendment offered by the gentleman from New Jersey (Mr. Maguire) is in fact germane to it in terms of concept and in terms of purposes for which the amendment happens to be offered. For that reason, I think that the point of order should be rejected. . . .

MR. MAGUIRE: Mr. Chairman, the key point is that this is a refinement of the material that the Moffett substitute deals with. Therefore, the page on which it appears is irrelevant, and the point of order should be overruled.

THE CHAIRMAN: The Chair is prepared to rule.

The Chair has examined the substitute and the amendment, and states that while the page references are different, the principal matter of concern is the relationship between the amendment and the substitute. Clearly, there is a substantive relationship that goes beyond the question of the pages, since both deal with auto sticker plans.

On the matter of the scope of the amendment and its germaneness, the Moffett substitute imposes conditions on the entire auto sticker plan in the bill in two diverse aspects. One is a requirement of consultation with Governors, and the other is a special consideration which would be required for suburban and rural areas. The amendment to the substitute clearly deals with another diverse element of the plan itself, and, because of the diverse scope of the substitute, is germane to the substitute.

Therefore, the Chair overrules the point of order.

Instructions in Motion to Recommit

§ 2.21 Instructions included in a motion to commit or recommit the pending proposition must be germane thereto; to a concurrent resolution expressing Congressional concern over certain domestic policies of a foreign government and urging that government to improve those internal problems in order to enhance better relations with the United States, an amendment, contained in a motion to commit with instructions, urging the President to undertake specified diplomatic actions as a con-

sequence of that foreign government's policies, was held to be not germane.

The proceedings of July 12, 1978, relating to S. Con. Res. 95 (expressing the sense of Congress regarding trials of dissidents in the Soviet Union), are discussed in Sec. 23.2, infra.

Amendment Must Be Germane to Section to Which Offered—Amendment Proposing To Change Same Section of Existing Law as Section to Which Offered Ruled Out as Different Subject Matter

§ 2.22 To a section of a bill narrowly amending one section of existing law dealing with procedural rules governing labor elections and organization, an amendment changing the same section of law to require promulgation of rules defining unfair labor practices, a subject covered in another section of the law but not addressed in the pending section of the bill, was held to be not germane.

During consideration of the Labor Reform Act of 1977 (1) in the Committee of the Whole on Oct. 5, 1977,(2) the Chair, in sustaining a point of order against the amendment described above, reiterated the proposition that an amendment must be germane to the section of the bill to which it is offered. The proceedings were as follows:

MR. [JOHN M.] ASHBROOK [OF OHIO]: Mr. Chairman, I offer an amendment. . . .

The Clerk read as follows:

> Amendment offered by Mr. Ashbrook: Page 19, after line 5, insert the following new paragraph (c):
>
> "(c) The Board shall within three months after the date of enactment of the Labor Reform Act of 1977, issue rules or regulations to implement the provisions of section 8(b)(1) including rules which shall assure that no labor organization shall threaten or impose an unreasonable disciplinary fine or other economic sanction against any person in the exercise of rights under the Act (including but not limited to the right to refrain from any or all concerted activity or to invoke the processes of the Board).

MR. [FRANK] THOMPSON [Jr., of New Jersey]: Mr. Chairman, I make a point of order against the amendment. . . .

Mr. Chairman, the amendment offered by my colleague and friend from Ohio (Mr. Ashbrook), although in some ways meritorious, is offered to section 3 of the bill which amends section 6 of the National Labor Relations Act, the rulemaking authority. Under section 3, the Board is directed to make rules, first, that assure equal access during representation campaigns, which we have done; second, that define classes of representation cases; and three, schedules governing the holding of elections.

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1. H.R. 8410.

2. 123 CONG. REC. 32507, 32508, 95th Cong. 1st Sess.

The amendment offered, in effect, changes section 8 of the act relating to unfair labor practices. It is directed, therefore, at a subject not contemplated in the bill and establishes a new unfair labor practice, and is not germane to the committee bill or to section 3. . . .

MR. ASHBROOK: . . . I believe this does come under the general rulemaking. It is in section 6. Furthermore, when we refer to willful violations, on page 22, in section 7, this bill does refer to unfair labor practices, and I think under the previous precedents established, where we open up a section referring to unfair labor practices, it is now not timely for the chairman to say that this bill does not amend unfair labor practices. Section 7 clearly refers to unfair labor practices, as does my amendment to section 3, and I would hope the Chair would overrule the point of order.

THE CHAIRMAN:[3] The Chair is ready to rule.

The gentleman from Ohio (Mr. Ashbrook) has offered an amendment that, while not directly amending section 8 of the act, would amend section 6 of the act to direct the Board to promulgate regulations. The amendment would really reach issues of substantive law, since the regulations would conclusively pronounce that certain union conduct shall constitute an unfair labor practice under section 8. In such form, the amendment goes beyond the issue of implementing rulemaking authority and deals directly with the question of conduct which for the first time would constitute an unfair labor practice beyond the period of initial stages of organizational activity, a matter not addressed by the committee bill in section 3.

The reference of the gentleman from Ohio to the provisions of section 7 does not alter the fact that an amendment must be germane to the pending section.

For that reason, the Chair must sustain the point of order.

Germaneness Determined Without Reference to Subjects of Titles Not Yet Read

§ 2.23 An amendment should be germane to the particular paragraph or section to which it is offered without reference to the subject matter of other titles not yet read.

The proceedings of July 31, 1990, relating to H.R. 1180, the Housing and Community Development Act, are discussed in § 4.58, infra.

Amendment Offered to Amendment Made in Order by Special Rule

§ 2.24 The test of germaneness of an amendment to a pending amendment is its relationship to the pending amendment and not to the bill to which that pending amendment has been offered; thus, where a special rule

3. William H. Natcher (Ky.).

waives points of order against the consideration of a designated amendment which might otherwise not be germane if offered to a bill, and does not specifically preclude the offering of amendments thereto, germane amendments that are germane to that amendment may be offered, and, if adopted, may not be subsequently challenged as not coming within the coverage of the waiver.

On July 22, 1975,[4] during consideration of the Energy Conservation and Oil Policy Act of 1975[5] in the Committee of the Whole, it was held that where points of order have been waived against a specific amendment which has then been altered by amendment, a point of order will not lie against the modified amendment as not coming within the coverage of the waiver:

MRS. [PATRICIA] SCHROEDER [of Colorado]: Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mrs. Schroeder to the amendment offered by Mr. Krueger: In section 8(d)(2)(E)(ii)(a)(1) of the Emergency Petroleum Allocation Act of 1973 as amended by Mr. Krueger's amendment, strike the words "(including development or production from oil shale," and insert a comma after "gas".

In section 8(d)(2)(E)(ii)(a)(2) of the Emergency Petroleum Allocation Act of 1973 (as amended by Mr. Krueger's amendment) strike the words "oil shale,".

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, I reserve a point of order, and pending that I have a parliamentary inquiry.

THE CHAIRMAN:[6] The gentleman from Texas reserves a point of order, and the gentleman will state his parliamentary inquiry.

MR. ECKHARDT: The parliamentary inquiry is what determines germaneness of this amendment, if it is germane, to the Krueger amendment? It would then be admissible at this time as germane, as I understand it. In other words, the relation to the Krueger amendment would determine germaneness in this instance, I would assume.

THE CHAIRMAN: If the gentleman is asking whether the amendment offered by the gentlewoman from Colorado has to be germane, the answer, of course, is "yes". Is the gentleman contending that it is not germane?

MR. ECKHARDT: No. The gentleman merely asks whether or not on the question of germaneness with respect to this amendment, the question is determined on whether or not this amendment is germane to the Krueger amendment.

THE CHAIRMAN: That is correct. . . .

MR. ECKHARDT: Mr. Chairman, if the Chair would permit me, I should make

4. 121 CONG. REC. 23990, 23991, 94th Cong. 1st Sess.

5. H.R. 7014.

6. Richard Bolling (Mo.).

a point of order now if I must do so or I will at such time as the vote arises on the Krueger amendment on the ground that the Krueger amendment is now outside the rule.

If the Chair will recall, I queried of the Chair whether or not the question of germaneness on the amendment offered by the gentlewoman from Colorado was based upon its germaneness to the Krueger amendment or if that were the standard. The Chair answered me that it was. Therefore, the amendment offered by the gentlewoman from Colorado was not subject to a point of order at that time and I point out to the Chair that the question of germaneness rests upon whether or not the amendment is germane to the amendment to which it is applied.

At that time it was not in order for me to urge that the amendment offered by the gentlewoman from Colorado was not germane because it was indeed germane to the Krueger amendment, but the rule protects the Krueger amendment itself from a point of order on the grounds of germaneness and specifically says that it shall be in order to consider without the intervention of any point of order the text of an amendment which is identical to the text of section 301 of H.R. 7014 as introduced and which was placed in the Congressional Record on Monday and it is described.

The Krueger amendment upon the adoption of the Schroeder amendment becomes other than the identical amendment which was covered by the rule. At this point the question of germaneness of the Krueger amendment rests on the question of whether or not it is at the present time germane to the main body before the House.

It is not germane to the main body before the House because of the—and I cite in this connection Deschler on 28, section 24 in which there are several precedents given to the effect that an amendment which purports to create a condition contingent upon an event happening, as for instance the passage of a law, is not in order. For instance 24.6 on page 396 says:

> To a bill authorizing funds for construction of atomic energy facilities in various parts of the Nation, an amendment making the initiation of any such project contingent upon the enactment of federal or state fair housing measures was ruled out as not germane.

There are a number of other authorities in that connection, that is, an amendment postponing the effectiveness of legislation pending contingency.

Now, with respect to the question of timeliness, the gentleman from Texas could not have raised the point of order against the Schroeder amendment because of the fact that the Schroeder amendment was, in fact, germane to the Krueger amendment. It is clearly stated that the test of germaneness must rest on the question of the body upon which the amendment acts, and as I queried the Chair at the time, I asked that specific question, would the germaneness of the Schroeder amendment rest upon the question whether it is germane to the Krueger amendment. . . .

MR. [CLARENCE J.] BROWN of Ohio: Mr. Chairman, I only state that it seems to me that the rule makes the Krueger amendment in order by its text, but it does not prohibit it being amended by subsequent action of this

body and that if the text had been changed by the gentleman from Texas (Mr. Krueger) in its introduction, the point of order might have been appropriate; but the point of order that is attempted to prohibit this body from amending the text of the Krueger amendment after it has been properly introduced and been made germane by the rule would prohibit those others in the majority of this body from acting on any perfection of the Krueger amendment. I do not think that is the purpose of the rule. . . .

THE CHAIRMAN: The Chair is ready to rule.

The rule under which the matter is being considered did in fact make in order the so-called Krueger amendment, and any amendment to that amendment which is germane to that amendment was thus, at the same time, made in order. There was no need for special provision to make amendments germane to the Krueger amendment in order, and the argument made by the gentleman from Ohio (Mr. Brown) is very much to the point.

The Chair, therefore, overrules the point of order.

Amendment Modifying a Law Being Extended by Bill

§ 2.25 A bill continuing and reenacting an existing law may be amended by a proposition modifying in a germane manner the provisions of the law being extended.

On June 1, 1976,[7] the Committee of the Whole had under consideration a bill (H.R. 12169) reenacting a law, to extend the existence of the Federal Energy Administration. That law provided, in the absence of such extension, for termination of the agency and a consequent transfer of its functions to other agencies. An amendment in the nature of a substitute was offered which itself provided for termination of the agency and the transfer of certain of its functions to other agencies—matters deemed to be within the jurisdiction of committees other than that which reported the bill:

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mrs. Schroeder:

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Federal Energy Administration is abolished.

ABOLITION OF FUNCTIONS

Sec. 2. The functions of the following offices of the Federal Energy Administration shall be abolished: the functions of the Office of Management and Administration (other than the Office of Private Grievances and Redress); the functions of the Office of Intergovernmental, Regional, and Special Programs; the functions of the Office of Congressional Affairs . . .

Sec. 3. (a) The functions of the following offices of the Federal Energy Administration shall be transferred to other agencies as directed in this section:

(1) The functions of the Offices of Energy Policy and Analysis, Energy Conservation and Environment, and

7. 122 CONG. REC. 16021–25, 94th Cong. 2d Sess.

International Energy Affairs shall be transferred to the Energy Research and Development Administration.

(2) The functions of the Office of Energy Resource Development (including the Office of Strategic Petroleum Reserve) shall be transferred to the Department of the Interior.

(3) The functions of the Office Regulatory Programs (including the Office of Private Grievances and Redress) shall be transferred to the Federal Power Commission. . . .

Mr. John D. Dingell, of Michigan, made a point of order against the amendment:

MR. DINGELL: Mr. Chairman, the rules of the House require that the amendment be germane to the bill which is before the House both as to the place in the bill to which the germaneness question arises, and the amendment is offered, and also as to the bill as a whole.

The first grounds for the point of order are that the amendment goes beyond the requirements of the place in the bill to which the amendment is offered; the second is that it fails to meet the test of germaneness in several particulars. First, that it is a matter which would have been referred to a diversity of committees other than the committee which presently has the responsibility therefor. . . .

Mr. Chairman, I would point out that there are several tests of germaneness, the first being the test of committee jurisdiction. Obviously, none of the matters referred to in the amendment are properly within the jurisdiction of the Committee on Interstate and Foreign Commerce.

The second test is that they must be pertinent to the matters before the House. It is clearly obvious that such broad transfer of responsibilities to diverse agencies and also the imposition of responsibilities on the Director of the Office of Management and Budget, are far beyond the jurisdiction of the Committee on Interstate and Foreign Commerce, and that the responsibility for the establishing of a savings clause with respect to litigation is not within the jurisdiction of that committee.

Another test of germaneness is the fact that the amendment should give notice to the Members as to what they could reasonably anticipate in the sense of amendments which might be presented to them. . . .

Lastly, to meet the test of germaneness, it is required that the subject matter relate to the subject matter of the bill, and the amendment which is before us clearly seeks to transfer these responsibilities broadly throughout the Federal Government; the establishment of savings clauses and the oversight responsibilities which are imposed go far beyond the requirements of the rules of the House. So that for all of these reasons I respectfully insist upon my point of order. . . .

MRS. [PATRICIA] SCHROEDER [of Colorado]: . . . Committee jurisdiction over the subject of an amendment and the original bill is not the exclusive test of germaneness—August 2, 1973.

The bill H.R. 12169 incorporates by reference the entire Federal Energy Administration Act of 1974, a bill which was reported by the House Government Operations Committee. It does so by, in essence, reenacting the entire act.

Amendments to the entire act are in order and therefore the substitute,

which, if outside of Interstate and Foreign Commerce Committee jurisdiction, strays no farther than into Government Operations Committee jurisdiction, is undeniably germane. And the germaneness of an amendment in the nature of a substitute is its relationship to the bill as a whole, and is not necessarily determined by the content of an incidental portion of the amendment which, if considered separately, might be within the jurisdiction of another committee—August 2, 1973. Furthermore, to a bill continuing and reenacting an existing law an amendment germane to the existing act sought to be continued was held to be germane to the pending bill—VIII, 2940, 2941, 2950, 3028; October 31, 1963. To a bill extending an existing law in modified form, an amendment proposing further modifications of that law may be germane—April 23, 1969; February 19, 1975.

The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill—VIII, 2911—the purposes of both H.R. 12169 and the substitute are to continue the functions of the Federal Energy Administration. The differences are simply: First, to what extent the functions will be continued; and second, what bodies of Government will be responsible for continuing the functions. . . .

MR. [CLARENCE J.] BROWN [of Ohio]: Mr. Chairman, the rules of the House under rule X(i)(3) give the Committee on Government Operations jurisdiction over the reorganizations in the executive branch of the Government. The bill we have before us is an Interstate and Foreign Commerce bill. Therefore, the Schroeder amendment is nongermane because it involves matter not before the Committee on Interstate and Foreign Commerce.

The title of the bill before us, both as it was originally drawn and as it is amended, does only two things, and as amended it reads:

> To amend the Energy Policy and Conservation Act to authorize appropriations for fiscal year 1977 to carry out the functions of the Federal Energy Administration, and for other purposes.

The other purposes are not accomplished in the legislation or the language of the bill. Therefore the bill before the House is a bill to authorize funds for and extend the life of the Federal Energy Administration. As such it merely extends with some modification the authorities of the FEA.

The Schroeder amendment on the other hand would completely terminate those functions and transfer them to many other Government agencies, a matter within the jurisdiction of the Government Operations Committee and not a matter within the jurisdiction of the bill. Therefore it necessarily involves reorganization of the executive branch functions and as such is within the jurisdiction of the Committee on Government Operations. . . .

Again in 28, section 6.2 of Deschler's Precedents, it says:

> To a bill drafted to achieve a purpose by one method, an amendment to accomplish a similar purpose by an unrelated method, not contemplated by the bill, is not germane.

In other words, the effort to abolish and reorganize would not be germane to a bill to merely authorize and mod-

ify certain functions within the jurisdiction of the committee dealing with the bill on the floor. . . .

MR. [FLOYD J.] FITHIAN [of Indiana]: . . . The main point, Mr. Chairman, is this: Are we or are we not in the Schroeder substitute attempting to arrive at the disposition of this matter by carrying out the functions of FEA in this authorization to appropriate and carry out these functions by other means? Now, clearly, this is brought out in rule XVI, section 789b, page 514, of the Rules of the House of Representatives:

> . . . Thus to a proposition to accomplish a result through regulation by a governmental agency, an amendment to accomplish the same fundamental purpose through regulation by another governmental agency. . . .

THE CHAIRMAN:[8] The Chair is ready to rule.

Several days ago the gentlewoman from Colorado (Mrs. Schroeder) placed her amendment in the Record. The attention of the Chair was called to the amendment at that time.

Generally speaking, as far as germaneness is concerned, since the committee proposal before the Committee at this time extends the term of the original act, amendments that would be considered as germane to the original act being reenacted would be considered as germane at this time.

This principle, in part, was the basis of the decision in Cannon's Precedents, volume VIII, section 2941, that a bill continuing and reenacting the present law is subject to an amendment modifying the provisions of the law carried in that bill.

The gentleman from Michigan (Mr. Dingell) makes the point of order that the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Mrs. Schroeder) is not germane to the committee amendment in the nature of a substitute for H.R. 12169.

The committee amendment extends the term of the Federal Energy Administration Act until September 30, 1979, and provides specific authorizations for appropriations for that agency through fiscal year 1977.

The amendment in the nature of a substitute would abolish the Federal Energy Administration and some of its functions, and would transfer other functions currently performed by the agency to other Departments and agencies in the executive branch, and would authorize appropriations for the next fiscal year for the performance of those functions transferred by the amendment.

The Chair has had an opportunity to examine the committee bill, the law—Public Law 93–275—being continued and reenacted by the bill, and the amendment in the nature of a substitute against which the point of order has been raised. While it is true that the basic law which created the Federal Energy Administration was reported as a reorganization proposal from the Committee on Government Operations in the last Congress, and while it is also true that a bill containing the substance of the amendment has been jointly referred to that committee and to the Committee on Interstate and Foreign Commerce in this Congress, the Chair would point out that committee jurisdiction is not the sole or exclusive test of germaneness.

8. William H. Natcher (Ky.).

The Chair would call the attention of the Committee to extensive precedent contained in Cannon's volume VIII, section 2941, which the Chair has already cited, where an amendment germane to an existing law was held germane to a bill proposing its reenactment. The Chair feels that this precedent is especially pertinent in the limited context where, as here, the pending bill proposes to extend the existence of an organizational entity which would otherwise be terminated by failure to reenact the law.

In such a situation, the proper test of germaneness is the relationship between the basic law being reenacted and the amendment, and not merely the relationship between the pending bill and the amendment.

It is important to note that the law being extended was itself an extensive reorganization of various executive branch energy-related functions. Not only did Public Law 93–275 transfer several functions from the Interior Department and the Cost of Living Council to the FEA, but that law also authorized the Administrator of FEA to perform all functions subsequently delegated to him by Congress or by the President pursuant to other law. Section 28 of that law provides that upon its termination, which would result if the pending bill is not enacted, all functions exercised by FEA would revert to the department or agency from which they were originally transferred.

It appears to the Chair, from an examination of the committee report, that all of the functions which the amendment in the nature of a substitute proposes to abolish or to transfer are being extended and authorized by the committee bill.

Since the basic law which created the FEA is before the committee for germane modification, since changes in that law relating to the delegation of authority to perform functions from or to the FEA are germane to that law, and since the pending committee bill authorizes the FEA to perform all of the functions which the amendment in the nature of a substitute would abolish or transfer, the Chair holds that the amendment is germane to the committee proposal and overrules the point of order.

§ 2.26 To a bill extending the Federal Energy Administration Act, including the Administrator's authority under that Act to conduct energy programs delegated to him, an amendment seeking to restrict the manner in which the Administrator was to submit energy action proposals to Congress was held germane to the law being extended as a limitation on discretionary authority conferred in that law, and therefore germane to the bill.

On June 1, 1976,[9] during consideration of H.R. 12169 (Federal Energy Administration extension), it was held that to a bill continuing and reenacting an existing law, a germane amendment modifying the provisions of the law being extended was in order:

The Clerk read as follows:

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9. 122 CONG. REC. 16045, 16046, 94th Cong. 2d Sess.

Amendment offered by Mr. Eckhardt: Page 10, after line 4, insert the following:

LIMITATION ON DISCRETION OF THE ADMINISTRATOR WITH RESPECT TO SUBMISSION OF ENERGY ACTIONS

Sec. 3. Section 5 of the Federal Energy Administration Act of 1974 is amended by adding at the end thereof the following:

"(c) The Administrator shall not exercise the discretion delegated to him pursuant to section 5(b) of the Emergency Petroleum Allocation Act of 1973 to submit to the Congress as one energy action any amendment under section 12 of the Emergency Petroleum Allocation Act of 1973 which exempts crude oil or any refined petroleum product or refined product category from both the allocation provisions and the pricing provisions of the regulation under section 4 of such Act.". . . .

MR. [CLARENCE J.] BROWN [of Ohio]: Mr. Chairman, I think at least two, and perhaps more, basic principles of germaneness make the Eckhardt amendment nongermane. The first one is this:

> The fundamental purpose of an amendment must be germane to the fundamental purpose of the bill (Cannon's Precedents, page 199).

Mr. Chairman, the Dingell bill's fundamental purpose is to authorize appropriations to the Federal Energy Administration Act of 1974—section 1—and to extend the life of that Agency—section 2. These are the only two sections of the bill and the only fundamental purpose of the bill.

Mr. Chairman, a bill amending several sections of an act does not necessarily bring the entire act under consideration so as to permit amendment to any portion of the act sought to be amended by the bill—Cannon's Precedents, page 201.

The Dingell bill amends only two sections of the Federal Energy Administration Act, section 29, dealing with the authorization of appropriations, and section 30, dealing with the termination date of the act. The Eckhardt amendment does not apply to either one of these sections.

Mr. Chairman, I would also like to cite from Deschler's Procedure 28, section 5.10 and section 5.11, as follows:

> An amendment repealing sections of existing law is not germane to a bill citing but not amending another section of that law, where the fundamental purposes of the bill and amendment are not related.

Then I cite section 5.11, Mr. Chairman, which says the following:

> To a section of a committee amendment in the nature of a substitute having as its fundamental purpose the funding of urban highway transportation systems, an amendment broadening that section to include rail transportation within its ambit is not germane. . . .

[T]he amendment is, in effect, a modification of the Energy Petroleum Allocation Act, as amended by the Federal Energy Policy and Conservation Act, rather than an amendment of the Federal Energy Administration Act, the only legislation touched by H.R. 12169. . . .

This is an amendment which directly modifies the provisions of section 12 of EPAA—added by EPCA—which provides in subsection (c)(1):

> Any such amendment which, with respect to a class of persons or class of transactions (including trans-

actions with respect to any market level), exempts crude oil, residual fuel oil, or any refined petroleum product or refined product category from the provisions of the regulation under section 4(a) as such provisions pertain to either (A) the allocation of amounts of any such oil or product, or (B) the specification of price or the manner for determining the price of any such oil or product, or both of the matters described in subparagraphs (A) and (B), may take effect only pursuant to the provisions of this subsection. . . .

The effect of the Eckhardt amendment is to strike the words "or both" from section 12(c)(1) of EPAA. As such it is, in effect, an amendment to EPAA, not to the FEA Act under consideration here, and is therefore, nongermane. . . .

MR. [BOB] ECKHARDT [of Texas]: Mr. Chairman, the purpose of the amendment is, as is stated, to limit the discretion of an administrator with respect to submission of energy actions. The Federal Energy Administration Act of 1974 provided that subject to the provisions of the procedures set forth in this act, the administrator shall be responsible for such actions as are taken by this office that adequate provision is made to meet the energy needs of the nation. To that end, they shall make such plans and direct and conduct such programs related to the production, conservation, use, control, distribution, rationing and allocation of all forms of energy as are appropriate in connection with only those authorities or functions—and then it lists them.

What the amendment does, it limits the discretionary authority of the administrator. The act itself creates the agency and gives general authority to the administrator. It is true, of course, that there are other acts that call for certain processes but these processes are conducted under the authority of the administration as described in the energy act.

The effect of this amendment is simply to require that the FEA submit to Congress, separate from other matters, the question of price decontrol. That is, it may not package in a single proposal to Congress both price decontrol and allocation decontrol. . . .

THE CHAIRMAN:[10] The Chair is ready to rule.

The gentleman from Ohio (Mr. Brown) makes a point of order against the amendment offered by the gentleman from Texas (Mr. Eckhardt) on the ground that it is not germane to the bill.

The amendment would amend section 5 of the Federal Energy Administration Act to restrict the discretion of the Administrator in the method of submitting energy action proposals to Congress, a function delegated to him by the President under the Petroleum Allocation Act of 1973. Section 5 of the Federal Energy Administration Act directs the Administrator to prepare for and conduct programs for production, conservation, use, control, distribution, rationing, and allocation of energy in connection with authorities transferred to him by law or delegated to him by the President.

The amendment of the gentleman from Texas would place a specific restriction on the exercise of that discretion to perform functions under other laws.

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10. William H. Natcher (Ky.).

On March 6, 1974, when the original Federal Energy Administration Act was being considered for amendment in the Committee of the Whole, an amendment was offered to section 5 of the bill, the section of the act presently in issue. The amendment would have prohibited the Administrator from setting ceiling prices on domestic crude oil above a certain level in the exercise of the authority transferred to him in the bill, and Chairman Flynt ruled that the amendment was germane as a limitation on the discretionary authority conferred on the Administrator in that section and as a limitation not directly amending another existing law.

For the reasons stated, the Chair finds that the amendment is germane to the bill under consideration and to the Federal Energy Administration Act which it extends, and overrules the point of order.

Senate Amendment Striking Language in House Bill—Motion To Recede and Concur With Amendment

§ 2.27 Where a Senate amendment proposes to strike out language in a House bill, the test of the germaneness of a motion to recede and concur with an amendment is the relationship between the language in the motion and the provisions in the House bill proposed to be stricken by the Senate amendment.

The proceedings of Dec. 12, 1974, relating to H.R. 16901, the agriculture, environment and consumer appropriations bill for fiscal 1975, are discussed in Sec. 27.14, infra.

Germaneness of Senate Amendment That Was Amended by House

§ 2.28 The test of germaneness under Rule XXVIII, clause 4, of a portion of a conference report originally contained in a Senate amendment is its relationship to the final House version of the bill committed to conference, and not to the original House-passed bill which may have been superseded by a House amendment to the Senate amendment prior to conference; thus, where the House (by unanimous consent) amended a Senate amendment to include matter germane to the Senate amendment although not germane to the original House-passed bill, the Chair stated that a germaneness point of order would not lie against the Senate amendment as so modified in a conference report.

The proceedings of July 28, 1983, relating to the conference report on H.R. 2973 (interest and

dividend tax withholding repeal), are discussed in Sec. 26.3, infra.

Amendments Stating Congressional Policy Offered to Substitute Providing Humanitarian Assistance

§ 2.29 To a substitute providing humanitarian and evacuation assistance to victims of war in South Vietnam, two amendments containing Congressional foreign policy declarations with respect to the roles of other nations in causing and ending that war were held to go beyond the scope of the purpose of the bill and were held to be not germane.

On Apr. 23, 1975,[11] during consideration of H.R. 6096, the Vietnam Humanitarian Assistance and Evacuation Act, amendments expressing the sense of Congress relative to the causes of circumstances addressed by the bill's provisions, and including broad declarations of foreign policy, were ruled out of order as not germane, the bill being limited to relief for a specific situation. The first of the amendments was offered by Mr. Robert E. Bauman, of Maryland:

MR. BAUMAN: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. Bauman to the substitute amendment offered by Mr. Eckhardt for the amendment in the nature of a substitute offered by Mr. Edgar: At the end of the substitute and renumber accordingly; add the following new section:

"Sec. —. The Congress finds that the provisions of this Act are made necessary by the flagrant violations of the Paris Peace Agreement by the military forces of the North Vietnamese and the Viet Cong now engaged in military aggression against the people and government of the Republic of Vietnam; further, the Congress condemns in the strongest possible terms this aggression as well as the support given to the North Vietnamese by the Union of Soviet Socialist Republics and the People's Republic of China, both of which share responsibility for the faithful observance of the Paris Agreement; and further, the Congress views the attitude of the governments of the Soviet Union and the People's Republic of China towards this aggression as a critical test of good faith, and calls upon them immediately to use their influence to end the aggression by the North Vietnamese and the Viet Cong.". . .

MR. [ROBERT W.] EDGAR [of Pennsylvania]: Mr. Chairman, I raise the point of order that the amendment is not germane to the bill; that it includes information that does not have any indication that it relates to the object of what is being done in the substitute amendment.

THE CHAIRMAN:[12] Does the gentleman from Maryland desire to be heard?

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11. 121 CONG. REC. 11510, 11511, 94th Cong. 1st Sess.

12. Otis G. Pike (N.Y.).

MR. BAUMAN: . . . I would say that while this amendment may not be pleasing to the 71 Members who voted against the Ashbrook amendment, it goes to the very heart of the matter which is contained in this bill, which deals with humanitarian aid and evacuation procedures. By reason of the amendment offered by the gentleman from Mississippi (Mr. Montgomery) it now includes the problem of prisoners of war and missing in action and accountability.

In fact, it deals with policy in that matter. The scope of the bill has broadened considerably, and it is all within the jurisdiction of the Committee on International Relations and deals directly with the reason that this legislation must be offered today and acted upon. In fact, that is the very reason for this amendment. . . .

MR. [ROBERT C.] ECKHARDT [of Texas]: Mr. Chairman, I seek recognition on the point of order.

Mr. Chairman, the amendment offered by the gentleman from Maryland (Mr. Bauman) does this: It intends to direct international policy, to direct the State Department to provide general provisions controlling the policy of the United States in matters far beyond the Vietnamese question.

The substitute on the floor does none of these things. It essentially provides, in its major provisions, which are similar to the committee bill, means by which certain persons may be removed from Vietnam, that is, citizens of the United States and dependents, persons entitled to come over because of their connection with the U.S. nationals. . . .

THE CHAIRMAN: The Chair is ready to rule.

The Chair has examined the amendment and in the opinion of the Chair, the amendment, particularly the language, "the Congress views the attitude of the governments of the Soviet Union and the People's Republic of China toward this aggression as a critical test of good faith," does, in fact, go far beyond the scope of the legislation before us.

The point of order is sustained.

MR. [JOHN H.] BUCHANAN [Jr., of Alabama]: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. Buchanan to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: On page 3, after line 9, add the following new section:
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> "Sec. 8. The Congress finds that the provisions of this Act are made necessary by the flagrant violations of the Paris Peace Agreement by the military forces of the North Vietnamese and the Viet Cong now engaged in military aggression against the people and government of the Republic of Vietnam; further, the Congress condemns in the strongest possible terms this aggression as well as the support given to the North Vietnamese by the Union of Soviet Socialist Republics and the People's Republic of China, both of which share responsibility for the faithful observance of the Paris Agreement." . . .

MR. EDGAR: Mr. Chairman, I make the point of order on the same grounds I stated before. This amendment is not germane. This piece of legislation raises issues which should not be dealt with in this fashion. . . .

MR. BUCHANAN: . . . I have stricken from the original amendment the language to which the Chair earlier referred. I believe all the remaining language deals specifically with what the provisions of this legislation do and why they are necessary. . . .

THE CHAIRMAN: The Chair is ready to rule.

While it is true that the Chair did refer particularly to certain language in the earlier amendment, the Chair does not indicate that if that particular language had not been there, the amendment would have been found to be in order.

The language of the amendment still goes far beyond the scope of the bill.

The point of order is sustained.

§ 2.30 To a substitute dealing with humanitarian and evacuation assistance to war victims in Vietnam, perfected by amendment to prohibit such assistance to specified groups, a further amendment stating that the necessity for the relief provided has been caused by the actions of the groups denied assistance was held germane as an expression of foreign policy not extending beyond the purposes of the perfected proposition.

On Apr. 23, 1975,[13] the Committee of the Whole had under consideration H.R. 6096, the Vietnam Humanitarian Assistance and Evacuation Act. An amendment was offered by Mr. John M. Ashbrook, of Ohio, and the proceedings were as follows:

MR. ASHBROOK: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. Ashbrook to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: Insert new section 8 and renumber following sections:
>
> "Sec. 8. To insure that the assistance is provided to such persons throughout South Vietnam no funds authorized in this Act shall be used, directly or indirectly, to aid the Democratic Republic of Vietnam (DRV) or the Provisional Revolutionary Government (PRG) nor shall any funds authorized under this Act be channeled through or administered by the DRV or the PRG." . . .

[The amendment was agreed to.]

MR. [JOHN H.] ROUSSELOT [of California]: Mr. Chairman, I offer an amendment to the substitute amendment for the amendment in the nature of a substitute.

The Clerk read as follows:

> Amendment offered by Mr. Rousselot to the amendment offered by Mr. Eckhardt as a substitute for the amendment in the nature of a substitute offered by Mr. Edgar: On page 3, after line 9, add the following new section:
>
> "Sec. 8. The Congress finds that the provisions of this Act are made necessary by the flagrant violations of the Paris Peace Agreement by the

13. 121 CONG. REC. 11507, 11508, 11511, 94th Cong. 1st Sess.

military forces of the North Vietnamese and the Viet Cong now engaged in military aggression against the people and government of the Republic of Vietnam.

MR. [ROBERT W.] EDGAR [of Pennsylvania]: Mr. Chairman, I make a point of order against the amendment. . . . I object to this amendment because it is not germane. . . .

MR. ROUSSELOT: . . . (The amendment) does very much refer to this legislation. It discusses the Paris peace agreements and the necessity for the use of military forces. . . .

THE CHAIRMAN:[14] The Chair is ready to rule.

The Chair finds that the present amendment is narrowly drawn. It refers to the situation in Vietnam to which this substitute in its perfected form is directed, and the Chair overrules the point of order.

New Title Dealing With Energy Used in Production of Beverage Containers Offered to Energy Conservation Bill

§ 2.31 A bill of several titles dealing generally with energy use and conservation and containing a title specifically dealing with efficiency of energy-using consumer products and requiring energy efficiency labeling of such products, was held sufficiently broad in scope to admit as germane an amendment in the form of a new title dealing with energy use in the production of certain non-energy consuming products (beverage containers) and incorporating the labeling requirements in the bill to demonstrate energy production requirements of such products.

On Sept. 18, 1975,[15] it was demonstrated that the test of germaneness of an amendment adding a new title to a bill being read by titles is the relationship between the amendment and the bill as a whole. The proceedings during consideration of the Energy Conservation and Oil Policy Act of 1975[16] in the Committee of the Whole were as follows:

TITLE V—IMPROVING ENERGY EFFICIENCY OF CONSUMER PRODUCTS

PART A—AUTOMOBILE FUEL MILEAGE

Sec. 501. Definitions.

Sec. 502. Average fuel economy standards applicable to each manufacturer. . . .

PART B—ENERGY LABELING AND EFFICIENCY STANDARDS FOR CONSUMER PRODUCTS OTHER THAN AUTOMOBILES

Sec. 551. Definitions and coverage.

Sec. 552. Test procedures.

Sec. 553. Labeling.

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14. Otis G. Pike (N.Y.).

15. 121 CONG. REC. 29322–25, 94th Cong. 1st Sess.

16. H.R. 7014.

Sec. 554. Energy efficiency standards. . . .

MR. [JAMES M.] JEFFORDS [of Vermont]: Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Jeffords: Page 331, after line 10, add the following:

TITLE VI—ENERGY LABELING AND EFFICIENCY STANDARDS FOR BEVERAGE CONTAINERS

DEFINITIONS AND COVERAGE

Sec. 601.—For purposes of this part—

(1) The term "beverage container" means a bottle, jar, can, or carton of glass, plastic, or metal, or any combination thereof, used for packaging or marketing beer or any other malt beverage, mineral water, soda water, or a carbonated soft drink of any variety in liquid form which is intended for human consumption. . . .

(4) The term "energy efficiency" means the ratio (determined on a national basis) of: The capacity of the beverage container times the number of times it is likely to be filled, to the units of energy resources consumed in producing such container (including such container's raw materials) and in delivering such container and its contents to the consumer.

The Commissioner, in determining the energy efficiency shall adjust any such determination to take into account the extent to which such containers are produced from recycled materials. . . .

LABELING

Sec. 603. The provisions of section 553, except paragraph (B) of subsection (a)(1), shall be applicable to beverage containers as defined in section 601. In addition, if the Commissioner determines that a beverage container achieves the energy efficiency target described in section 604, then no labeling requirement under this section may be promulgated or remain in effect with respect to such type. . . .

REQUIREMENTS OF MANUFACTURERS AND PRIVATE LABELERS

Sec. 605. The provisions of section 555 of this act with respect to consumer products to which a rule under section 553 applies shall be applicable to beverage containers as defined in section 601. . . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the point of order [is] on the ground that the amendment is not germane to the bill before us. The amendment seeks to impose efficiency standards on the manufacture of beverage containers. There is nothing in the bill relating to beverage containers. The amendment seeks to change efficiency standards imposed upon beverage containers themselves. There is nothing in this bill relating to beverage containers.

Furthermore, Mr. Chairman, not only is the amendment not germane to the bill but it also fails because it is not germane to the bill as amended because as the Chairman recalls all references to the efficiency standards have been removed from the bill with respect to industrial processes. If the amendment were to be offered relating to efficiency in manufacturing processes, it more appropriately should have been offered in sections relating to efficiency in manufacturing.

Those have now been deleted, of course. The amendment is not germane because it comes too late in the bill, for that matter, after it has been considered and acted upon in the House.

The amendment is very, very complex, setting up standards for efficiency in a whole series of devices. With regard to the mechanism we are under, this efficiency is judged and it goes into a lengthy complex set of judgments that must be exercised by the administrators with regard to this efficiency; but dealing solely with the question of bottles and containers. As I pointed out, there is no reference in the bill to bottles and containers. For that reason, the amendment is not germane. . . .

MR. [CLARENCE J.] BROWN of Ohio: . . . In Cannon's Procedures of the House of Representatives, the rule of germaneness occurs at section 794. It says that while the committee may report a bill embracing different subjects, it is not in order during the consideration of a bill to introduce a new subject. . . .

Mr. Chairman, the nature of the new subject in this legislation, it seems to me, is embraced in section 604 of the amendment as submitted by the gentleman from Vermont [Mr. Jeffords], in which we are not dealing with the set of standards of the operation of appliances as we were in the appliance section, or automobiles, as we were in the automobile standards section; but rather in the design of a nonenergy consuming product which the author of the amendment seeks to prohibit with reference to its possibilities of reuse. It gives the authority to the Secretary to prohibit a product on the basis of its design. So we are, in effect, impacting on the product with reference to the manufacture of the product in some mechanical or energy-consuming way. That, it seems to me, is a new direction or a new subject under the rule of germaneness, as opposed to the other approaches which the bill as reported out of the committee has taken. It is an area which I rather doubt comes under the purview of our committee, in that the purview of the committee relates to the consumption of energy as such and the licensing of that energy and the pricing of it and so forth. . . .

MR. [PHILLIP H.] HAYES of Indiana: Mr. Chairman, I simply wanted to add in regard to the standard . . . of looking to the fundamental purpose of an amendment in qualifying its germaneness, that this particular amendment would seek to add for the first time in the bill a class of product which does not in and of itself consume an average annual per household energy factor, nor does it consume in and of itself energy at all. . . .

MR. JEFFORDS: Mr. Chairman, never have I had an opportunity to tell so many distinguished gentlemen that they are wrong at the same time. First, let us go back to the basics here. What are we concerned with when we talk about the germaneness? Let us look at the legislative manual.

The fundamental purpose of an amendment is that it must be germane to the fundamental purpose of the bill. What is the fundamental purpose?

Let us take a look at the title, "Energy Conservation and Oil Policy Act of 1975." Look what we are trying to do. We are trying to conserve energy. Let us take a look at title III, with its broad powers over the whole area of development of petroleum. There are tremendous powers over the whole industry in allocation, production, as to where the industry goes. . . .

Let us get to the argument made by many, and that is it is different be-

cause we are talking about energy consumed in the production of the consumer product rather than the consumer himself.

The FEA is not going to go around this country chasing after people with electric toothbrushes to see whether they brush properly or to see whether they are plugged in properly. They are going to go to the manufacturer and say, "You have a toothbrush here that has to have a certain energy efficiency improvement." So we are saying when the product is sold that particular beverage container must consume less than a certain amount of energy. It is identical in purpose. The bill does not try to go out and nail the consumer. It gets to him by labeling. It says, "Here is a consumer product that uses less energy." My amendment will say, "Here is something that uses less energy." I see no difference whatsoever. Its basic purpose and fundamental purpose is the same as the bill, to conserve energy and conserve oil. How anybody can argue that this is not germane is impossible for me to see.

THE CHAIRMAN:[17] The Chair is ready to rule.

The gentleman from Indiana, the gentleman from Michigan, the gentleman from Ohio, and the gentleman from Texas have made points of order against the amendment offered by the gentleman from Vermont (Mr. Jeffords) on the ground that it is not germane to the bill.

The Chair would like to state that if the amendment had been offered to title V, the arguments of many of the gentlemen would have more significance.

The amendment offered would add a new title to the bill relating to energy conservation in the production of beverage containers.

The test of germaneness in such a situation is the relationship between the new title to be added by the amendment and the entire bill.

The Chair would state, initially, that he has reexamined the precedents contained in section 6.13 and section 6.19 of chapter 28 of Deschler's Procedure, wherein an amendment prohibiting the production of nonreturnable beverage containers was held not germane to the Energy Emergency Act, and finds that the situations are distinguishable.

As noted, the germaneness is dependent upon the relationship between the amendment in the form of a new title and the entire bill to which offered.

The 1973 bill was designed to regulate and promote the production, allocation, and conservation of energy resources and contained no reference to the production of consumer goods. In that context, the nonreturnable container amendment was not germane.

However, the bill now under consideration contains several diverse titles, all relating to use, consumption, availability, and conservation of energy.

The Chair notes specifically the provisions of title V relating to end use and energy consumption of certain consumer products.

The Chair, therefore, believes that the bill is sufficiently broad in scope to admit as germane an amendment in the form of a new title which is drafted in the form presented by incorporating by reference certain standards in the bill, and which relates to the conserva-

17. Richard Bolling (Mo.).

tion of energy by an industry engaged in the production of a consumer product, specifically, beverage containers.

The Chair, therefore, overrules the point of order.

Amendment Changing Date of Termination of Agency Offered to Amendment in Nature of Substitute Terminating Agency

§ 2.32 Where the Committee of the Whole had under consideration a bill extending the Federal Energy Administration Act and an amendment in the nature of a substitute abolishing the Federal Energy Administration on a date certain and transferring some of its functions to other agencies, an amendment offered to such amendment in the nature of a substitute for purposes of changing the date for termination of such agency was held to be germane.

On June 1, 1976,[18] during consideration of H.R. 12169 in the Committee of the Whole, Chairman William H. Natcher, of Kentucky, overruled a point of order against an amendment as indicated below:

The Clerk read as follows:

Amendment offered by Mr. Fithian to the amendment in the nature of a substitute offered by Mrs. Schroeder: Strike out "That the Federal Energy Administration is abolished" and insert in lieu thereof the following section:

"Sec. 1. Section 30 of the Federal Energy Administration Act of 1974 is amended by striking out 'June 30, 1976' and inserting in lieu thereof 'September 30, 1977'."

On line 3 of section 2 insert after "shall be abolished" the words "effective September 30, 1977".

On line 4 of section 3 strike the colon and insert the words "effective September 30, 1977:". . .

MR. [JOHN D.] DINGELL [of Michigan]: Mr. Chairman, the amendment must be not only germane to the amendment in the nature of a substitute and to the bill but it must be germane to the particular part of the bill to which it is addressed.

Mr. Chairman, if we will read the bill, we will observe there are two parts. There is a section 1 and a section 2. Section 1 relates to authorizations for appropriations, and section 2 relates to the extension of the life of the agency. The provisions relating to the extension of the agency itself, we will observe, are in section 2, which appears at page 10 of the bill, and while it might be desirable to have the amendment that the gentleman offers set forth as a policy from his point of view, the fact of the matter is that the amendment should be offered to the later part of the bill, section 2, printed at page 10, and not to the Schroeder amendment as offered. . . .

MR. [FLOYD J.] FITHIAN [of Indiana]: Mr. Chairman, I recognize what the

18. 122 CONG. REC. 16025, 16026, 94th Cong. 2d Sess.

distinguished subcommittee chairman is speaking about, but I would call to his attention the fact that the extension of the life of the Federal Energy Administration affects both section 1 and section 2. Therefore, it seems to me that in the normal, orderly process of the business of the House, we ought to offer this amendment at the earlier time.

We should note that the amendment that has been offered clearly indicates that in section 1, section 30 of the Federal Energy Administration Act of 1974 is amended by striking out "June 30, 1976," which is in section 1, and extending it to another date which is 15 months hence. Therefore, Mr. Chairman, I think what we now have to decide is whether or not we can proceed to debate a matter which we can alter and come out halfway between the Schroeder position and the Dingell position. That, it seems to me, is not altogether unreasonable, Mr. Chairman. . . .

THE CHAIRMAN: The Chair is ready to rule.

The amendment offered by the gentlewoman from Colorado (Mrs. Schroeder) is an amendment in the nature of a substitute for the entire bill and the Schroeder amendment is open to amendment at any point. The amendment offered by the gentleman from Indiana (Mr. Fithian) simply changes the date in the Schroeder amendment when FEA is to be abolished. It simply provides for a change of date.

The amendment is germane to the amendment in the nature of a substitute offered by the gentlewoman from Colorado (Mrs. Schroeder). The Chair, therefore, overrules the point of order.

§ 3. Amendment as Relating to Subject Matter Under Consideration

A broad requirement of the germaneness rule is that an amendment relate to the subject matter under consideration. It has been stated that,

> The fundamental test of germaneness . . . is that a proposition submitted must be akin and relative to the particular subject matter to which the proposition is offered as an amendment.[19]

Thus, an amendment relating to a subject to which there is no reference in the text to which offered may not be germane to the bill.[20]

Of course, the fact that two subjects are related does not necessarily render them germane to each other.[1] "Germaneness," as has been noted,[2] implies more than "relevance." For example, it has been held that, to a proposal to authorize certain activities, an amendment proposing to investigate the advisability of undertaking such activities is not germane.[3]

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19. See § 3.26, infra.

20. See § 5.8, infra.

1. See, for example, § 3.57, infra.

2. See § 1, supra.

3. See § 5.29, infra.